



भारत का राजपत्र The Gazette of India

शासक द्वारा प्रकाशित
PUBLISHED BY AUTHORITY

प्र. 44]

नई दिल्ली, शनिवार, नवम्बर 4, 1995/कार्तिक 13, 1917

No. 44]

NEW DELHI, SATURDAY, NOVEMBER 4, 1995/KARTIKA 13, 1917

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government
of India (other than the Ministry of Defence)

गृह मंत्रालय
(पुनर्वास प्रभाग)

नई दिल्ली, 12 जून, 1995

का.आ. 2890.—यतः केन्द्रीय सरकार की यह राय है कि मध्य प्रदेश, बिहार, उड़ीसा, पंजाब, हरियाणा, गुजरात, हिमाचल प्रदेश, पश्चिम बंगाल, महाराष्ट्र, आन्ध्र प्रदेश, तमिलनाडु, कर्नाटक, केरल, राजस्थान, उत्तर प्रदेश राज्यों तथा संघ राज्य क्षेत्र दिल्ली में, इसके साथ संलग्न अनुसूची में विनिर्दिष्ट सम्पत्तियों का सार्वजनिक प्रयोजन के लिए अर्जन करना आवश्यक है। इस प्रयोजन का संबंध विस्थापित व्यक्तियों के राहत और पुनर्वास से है, जिसमें ऐसे व्यक्तियों को प्रतिकर का भुगतान करना भी शामिल है।

अतः अब, विस्थापित व्यक्ति (प्रतिकर एवं पुनर्वास) अधिनियम, 1951 की धारा 12 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह अधिसूचित किया जाता है कि केन्द्रीय सरकार ने नीचे दी गई अनुसूची में विनिर्दिष्ट निष्क्रान्त सम्पत्तियों का अर्जन करने का विनिश्चय किया है तथा पुनर्वास उक्त सम्पत्तियों का अर्जन करती है:

अनुसूची

मध्य प्रदेश, बिहार, उड़ीसा, पंजाब, हरियाणा, गुजरात, हिमाचल प्रदेश, पश्चिम बंगाल, महाराष्ट्र, आन्ध्र प्रदेश, तमिलनाडु, कर्नाटक, केरल, राजस्थान, उत्तर प्रदेश राज्यों तथा संघ राज्य क्षेत्र दिल्ली में सभी निष्क्रान्त सम्पत्तियां, जिन्हें विभाजन में अभिरक्षक के हिस्से में आबंटित किया गया है, या जो निष्क्रान्त हित (पृथक्करण) अधिनियम, 1951 (1951 का 64) की धारा 11 के अधीन उक्त अधिनियम के उपबंधों के अन्तर्गत सक्षम अधिकारी के व्यापनिर्णयन के परिणाम स्वरूप 31-12-1994 तक अभिरक्षक में निहित हो गई हैं, अथवा जो उक्त अधिनियम की धारा 19 की उप धारा (2) के अन्तर्गत रहने की समाप्ति के परिणाम स्वरूप 31-12-1994 तक अन्यथा अभिरक्षक में निहित हो गई हैं तथा जिनके संबंध में कोई अपील दायर नहीं की गई है और की गई है तो उसे अपील अधिकारी द्वारा रद्द कर दिया गया है।

[सं. 12(1)/83—एम.एस. I/एस.एस. II/बंदोबस्त]
पी. के. शर्मा, निदेशक

MINISTRY OF HOME AFFAIRS

(Rehabilitation Division)

New Delhi, the 12th June, 1995

S.O. 2890.—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the States of Madhya Pradesh, Bihar, Orissa, Punjab, Haryana, Gujarat, Himachal Pradesh, West Bengal, Maharashtra, Andhra Pradesh, Tamil Nadu, Karnataka, Kerala, Rajasthan, Uttar Pradesh and the Union Territory of Delhi for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons;

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the Schedule hereto below :

SCHEDULE

All evacuee properties in the States of Madhya Pradesh, Bihar, Orissa, Punjab, Haryana, Gujarat, Himachal Pradesh, West Bengal, Maharashtra, Andhra Pradesh, Tamil Nadu, Karnataka, Kerala, Rajasthan, Uttar Pradesh and the Union Territory of Delhi which have been allotted to the share of Custodian in partition or have vested in the Custodian under Section 11 of the Evacuee Interest (Separation) Act, 1951 (64 of 1951), as a result of adjudication by the Competent Officer under the provisions of the said Act upto 31-12-1994 or which have otherwise vested in the Custodian as a result of extinguishment of the mortgage under Sub-Section (2) of Section 9 of the said Act upto 31-12-1994 and in respect of which no appeals have been filed and if filed have been rejected by the appellate Officer.

[No. 12(1)/83-SS.I/SS II/SFTTLEMENT]

P. K. SHARMA, Director

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

आदेश

नई दिल्ली, 20 अक्टूबर, 1995

का.आ. 2891.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का 25) की धारा 6 के साथ पठित धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए गुजरात राज्य की सहमात से, जो गृह विभाग, सचिवालय, गांधी नगर के आदेश सं. जी जी/104/95/बी.एम.एफ./3394/6465/जेड, तारीख 29 अप्रैल, 1995 द्वारा दी गई थी, अथवा लाइन पुलिस स्टेशन, सूरत नगर, सूरत के सी. आर. संख्या 205/94 में भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 420, 409, 465, 468, 471 के अधीन दंडनीय अपराध और उपर उल्लिखित एक या अधिक अपराधों की बाबत या उनके संबंध में किए गए प्रयत्न, दृष्टिकोण और पड़्यंत्र तथा वैसे ही तथ्यों से उद्भूत वैसे ही संव्यवहार के अनुक्रम में किए गए अन्य अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और अधिकारिता का विस्तार संपूर्ण गुजरात राज्य पर करती है।

[संख्या 228/34/95-ए. बी. डी.-II]

एम. सौंदर राजन, अवर सचिव

MINISTRY OF PERSONNEL, P. G. & PENSIONS

(Deptt. of Personnel & Training)

ORDER

New Delhi, the 20th October, 1995

S.O. 2891.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government, with the consent of the state Government of Gujarat Home Department, Sachivalaya, Gandhinagar, vide order No. GG/104/95/VSF/3394/6455/Z, dated 29th April, 1995, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Gujarat for investigation of the offences punishable under Section 420, 409, 465, 468, 471 of the Indian Penal Code, 1860 (Act No. 45 of 1860) in C.R. No. 205/94 of Athwa lines Police Station, Surat city, Surat and attempts, abetments and conspiracies in relation to or in connection with one of more of the offences mentioned above and any other offence or offences committed in the course of the same transaction arising out of the same facts.

[No. 228/34/95-AVD.II]

S. SONUDAR RAJAN, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 11 अक्टूबर, 1995

का.आ. 2892.—अर्कूफि फा. सं. 801/6/94-पिट एन डी पी एस दिनांक 19-1-94 के अंतर्गत संयुक्त सचिव, भारत सरकार को स्वापक औषध तथा मनः प्रभावी प्रदार्थ अधिनियम 1988 के खंड 3 के उपखंड (1) के अंतर्गत अवैध व्यापार को रोकने के लिए विशेष रूप से शक्ति प्राप्त है, निदेश देते हैं कि श्री दीन मुहम्मद, दीना खान पुत्र श्री कमल खान निवासी तिसगादी, जिला बाड़मेर (राज.) को स्वापक औषध को छिपाने तथा पारगमन में शामिल होने के रोकने के लिए केन्द्रीय कारागार तिहाड़, नई दिल्ली में हिरासत में रखा जाए।

2. जबकि केन्द्रीय सरकार यह समझती है कि उपर्युक्त व्यक्ति अपने आपको छिपाने अथवा फरार होने की चेष्टा कर रहा है ताकि आदेश को क्रियान्वित न किया जा सके।

3. अतः अब उक्त अधिनियम के खंड 8 के क्लॉज (ख) के उपखंड (1) में विहित शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा निदेश देती है कि उपर्युक्त व्यक्ति इस आदेश के सरकारी गजट में प्रकाशित होने के 10 दिन के भीतर सीमा शुल्क के आंतरिक सगाहर्ता के मामले प्रस्तुत हो।

[फा. सं. 801/6/94-पिट एन डी पी एस]

बी. के. अरोड़ा, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

ORDER

New Delhi, the 11th October, 1995

S.O. 2892.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Prevention of Illicit Traffic in Narcotic

तथा ये जगत्कार प्रपञ्च महाविदेगक

MINISTRY OF CIVIL SUPPLIES, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION

BUREAU OF INDIAN STANDARDS

New Delhi, the 18th October, 1995

S.O.2893:—In pursuance of clause (b) of Sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards, hereby notifies that amendment(s) to the Indian Standard(s) given in the Schedule hereto annexed, has/have been issued.

SCHEDULE

Sl. No. and year of the Indian Standard No.	No. and date of the amendment amended	Date from which the amendment shall have effect	
(1)	(2)	(3)	(4)
1. IS 5 : 1994	Amendment No. 1, September 1995	1995-09-30	
2. IS 75 : 1973	Amendment No. 3, August 1995	1995-08-31	
3. IS 544 : 1968	Amendment No. 3, September 1995	1995-09-30	
4. IS 583 : 1994	Amendment No. 1, August 1995	1995-08-31	
5. IS 1322 : 1993	Amendment No. 1, August 1995	1995-08-31	
6. IS 2454 : 1985	Amendment No. 1, September 1995	1995-09-30	
7. IS 2873 : 1991	Amendment No. 1, September 1995	1995-09-30	
8. IS 3319 : 1995	Amendment No. 1, August 1995	1995-08-31	
9. IS 3448 : 1984	Amendment No. 2, September 1995	1995-09-30	
10. IS 3491 : 1965	Amendment No. 4, September 1995	1995-09-30	
11. IS 3575 : 1993	Amendment No. 2, September 1995	1995-09-30	
12. IS 3593 : 1979	Amendment No. 1, September 1995	1995-09-30	
13. IS 4055 : 1966	Amendment No. 4, September 1995	1995-09-30	
14. IS 4277 : 1975	Amendment No. 3, September 1995	1995-09-30	
15. IS 5241 : 1987	Amendment No. 1, September 1995	1995-09-30	
16. IS 5637 : 1970	Amendment No. 1, September 1995	1995-09-30	
17. IS 6242 : 1985	Amendment No. 1, September 1995	1995-09-30	
18. IS 6400 : 1993	Amendment No. 1, September 1995	1995-09-30	
19. IS 7375 : 1979	Amendment No. 1, September 1995	1995-09-30	

1	2	3	4
20. IS 8003 : 1976		Amendment No. 1, August 1995	1995-08-31
21. IS 9445 : 1980		Amendment No. 1, September 1995	1995-09-30
22. IS 10325 : 1969		Amendment No. 4, September 1995	1995-09-30
23. IS 10650 : 1983		Amendment No. 1, August 1995	1995-08-31
24. IS 10657 : 1983		Amendment No. 2, August 1995	1995-08-31
25. IS 10703 : 1992		Amendment No. 1, August 1995	1995-08-31
26. IS 11806 : 1986		Amendment No. 1, August 1995	1995-08-31
27. IS 12237 : 1987		Amendment No. 2, August 1995	1995-08-31
28. IS 13864 : 1993		Amendment No. 1, September 1995	1995-09-30

Copies of these amendments are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi - 110 002 and Regional Offices : New Delhi, Calcutta, Chandigarh, Madras and Bombay and also Branch Offices : Ahmadabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Faridabad, Ghaziabad, Guwahati, Hyderabad, Jaipur, Kanpur, Lucknow, Patna, Thiruvananthapuram.

[No. CMD/13 : 5]

S. K. KARMAKAR, Addl. Director General

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 19 अक्टूबर, 1995

का.भा. 2894.—पेट्रोलियम और खनिज पाइपलाइन (भूमि के उपयोग का अर्जन) अधिनियम, 1962 (1962 का 50) के खंड 2 का धारा (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा नीचे अनुसूची के कॉलम-1 में दी गई इंदराज में उल्लिखित क्षेत्र में उल्लिखित प्राधिकारियों को उक्त अनुसूची के कॉलम-3 के अनुसार उक्त अधिनियम के अंतर्गत सक्षम प्राधिकारी के रूप में कार्य करने हेतु प्राधिकृत करती है।

अनुसूची

व्यक्ति का नाम	पता	अधिकार का क्षेत्र
1	2	3
राजेश वेद व्यास वरिष्ठ प्रबंधक (निर्माण)	गैस अथॉरिटी ऑफ इंडिया लिमिटेड, पी डी भाई एल बिल्डिंग	जिला, भागरा, मथुरा बुलन्दशहर, गाजियाबाद (उत्तर प्रदेश) और

1	2	3
	ए-14 सेक्टर-1 मोएडा, गाजियाबाद (उत्तर प्रदेश)	जिला फरीदाबाद (हरियाणा)
एस.एस. ब्राह्मजा वरिष्ठ प्रबंधक	गैस अथॉरिटी ऑफ इंडिया लिमिटेड गेल बिहार पोस्ट ऑफिस सेहद दिबियापुर, जिला टाब (उत्तर प्रदेश)	जिला इटावा (उत्तर प्रदेश)

[र. एल-14016/18/95-जी.पी.]
अध्वेनु सेन, निदेशक

MINISTRY OF PETROLEUM & NATURAL GAS

New Delhi, the 19th October, 1995

S.O.2894.—In pursuance of clause (a) of Section 2 of the Petroleum Minerals Pipelines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962) the Central Government hereby authorizes the authorities mentioned in column —1 of the schedule below to perform the function of Competent Authority under the said Act within the area mentioned in the corresponding entry in the column 3 of the said schedule.

SCHEDULE

Name of the Person	Address	Territorial Jurisdiction
1	2	3
Rajesh Vedvyas Sr. Manager (Constn.)	Gas Authority of India Ltd., PDIL Building A-14, Sector I, NOIDA Distt. Ghaziabad (U.P.)	Distt. Matura, Agra, Bulandshehr, Ghaziabad of U.P. and Faridabad of Haryana.
S.S. Ahuja Sr. Manager	Gas Authority of India Ltd., Gail Vihar, P.O. Sehud Dibiyapur, Distt. Etawah	Distt. Etawah of U.P. State.

[No. L-14016/18/95 G.P.]
ARDHENDU SEN, Director

नई दिल्ली, 20 अक्टूबर, 1995

का.आ. 2895.—यतः केन्द्रीय सरकार को यह प्रनीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में कानावाडा ई. पी. एस. से जी. ई. अपारपा. लि. लिम्बासी तक पेट्रोलियम के परिवहन के लिए पाइपलाइन गैस अथॉरिटी ऑफ इंडिया लिमिटेड द्वारा बिछाई जानी चाहिए। और यतः यह प्रतीत होता है कि ऐसे लाइनों को बिछाने के प्रयोजन के लिए एतद्वाच्य अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करने हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

अर्थात् कि उक्त भूमि में हितवन्त कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी गैस अथॉरिटी ऑफ इंडिया लिमिटेड वर्णन बिल्डिंग, आर.सी. बल रोड बड़ीदा को इस अधि-सूचना की तारीख से 21 दिनों के भीतर कर सकेगा और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टः यह भी कथन करेगा कि क्या वह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

कानावाडा ई. पी. एस. से जी. ई. अपार

लिम्बासी पाइप लाइन

राज्य : गुजरात

तालूका : केमबेय

जिला : खेडा

ग्राम	क्रम सं. ब्लॉक नं.	क्षेत्र
1	2	3
कानावाडा	कानावाडा ईपीएम	00 03 62
	५८	00 08 32
	९८	00 01 70

1	2	3	4	5
	100/1, 2	00	04	68
	101/1, 2	00	04	16
	102	00	13	26
	103	00	23	74
	104	00	00	65
	39	00	03	25
	38	00	04	29
	बैल गाड़ी मार्ग	00	00	78
	114	00	16	25
	122	00	03	25
	माइनर	00	01	37
	121	00	04	68
	120	00	07	02
	119	00	05	20
	माइनर	00	01	10
	170/पी	00	23	38
	165	00	00	65
	145	00	05	85
	143	00	14	85
	159	00	00	68
	144	00	06	63
	157	00	06	24
	156	00	03	12
	292	00	07	80
	291	00	00	20
	290	00	04	68
	289	00	04	16
	288	00	00	20
	बैल गाड़ी मार्ग	00	00	52
	287	00	13	13
	285	00	01	30
	286/पी	00	09	36
	284	00	06	24
	कच्छ रोड से			
	खालापुरा	00	02	60
	355	00	01	94

1	2	3	4	5
કાનાવાડા	તાળા	00	02	86
	358	00	14	43
	357	00	08	45
	369	00	10	40
	368	00	11	44
	367	00	05	20
	370	00	05	14
	404	00	28	12
	376/1, 2	00	06	45
	377	00	10	40
	378	00	10	92
	401/1, 2	00	07	80
	382	00	10	66
	400	00	01	00
	383	00	11	44
	399/1, 2 6 8	00	10	90
	394	00	24	18
	393/1, 2	00	05	20
	392/1	00	04	68
	391	00	04	94
કુલ		05	01	16

[સં. એલ-14016/3/95-જી. પી.]

અર્ધેન્દ્ર સેન, નિદેશક

New Delhi, the 20th October, 1995

S.O.2895.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of gas from Kanawada E.P.S. to G.E. APAR VT. LTD. LIMBASI in Gujarat State, pipeline should be laid by Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule appended hereto:

Now, therefore, in exercise of the powers conferred by sub-section (i) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Gas Authority of India Ltd., Darpan Building R.C. Dutt, Vadodara-370005.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE				
PIPELINE FROM KANAWADA EPS TO GE APAR AT LIMBASI				
State : Gujarat		Taluka : Cambay		Dist. : Kheda
Village	Sr. No. Block No.	Area		
		Hectare	Are	Centiare
1	2	3	4	5
Kanawada	Kanawada EPS	00	03	62
	98	00	08	32
	99	00	01	70
	100/1,2	00	04	68
	101/1,2	00	04	16
	102	00	13	26
	103	00	23	74
	104	00	00	65
	39	00	03	25
	38	00	04	29
	Cart Track	00	00	78
	114	00	16	25
	122	00	03	25
	Minor	00	01	37
	121	00	04	68
	120	00	07	02
	119	00	05	20
	Minor	00	01	10
	170/P	00	23	38
	165	00	00	65
	145	00	05	85
	143	00	14	95
	159	00	00	68
	144	00	06	63
	157	00	06	24
	156	00	03	12
	292	00	09	80
	291	00	00	20
	290	00	04	68
	289	00	04	16
	288	00	00	20
	Cart Track	00	00	52
	287	00	13	13
	285	00	01	30
	286/P	00	07	36
	284	00	06	24
	Kacch Road to Rasalpara	00	02	60
	355	00	01	04
	Nalla	00	02	86
	358	00	14	43
	359	00	08	45
	369	00	10	40
	368	00	11	44
	367	00	05	20
	370	00	05	14
	404	00	28	12
	376/1,2	00	06	45
	377	00	10	40
	378	00	10	92
	401/1,2	00	07	80
	382	00	10	66
	400	00	01	00
	383	00	11	44
	399/1,2,6,8	00	10	90

1	2	3	4	5
	394	00	24	18
	393/1,2	00	05	20
	392/1	00	04	68
	391	00	04	94
Grand Total		05	01	16

[No. L-14016/3/95-G.P.]

ARDHENDU SEN, Director

नई दिल्ली, 20 अक्टूबर, 1995

का.भा. 2896.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में कानावाडा ई.पी. एस. से जी. ई. अपार प्रा. लि. लिम्बासी तक पेट्रोलियम के परिवहन के लिए पाइपलाइन रॉस अथॉरिटी ऑफ इंडिया लिमिटेड द्वारा बिछाई जानी चाहिए। और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्द्वारा अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आशय सक्षम प्राधिकारी, रॉस अथॉरिटी ऑफ इंडिया लिमिटेड, वपुण बिल्डिंग, आर.सी. बल रोड, बड़ीवा को इस अधि-सूचना की तारीख से 21 दिनों के भीतर कर सकेगा, और ऐसा आशय करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या यह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

कानावाडा ई. पी. एम्. से जी. अपार

लीम्बासी पाइप लाइन

राज्य : गुजरात तालूका : मातार जिला : खेडा

ग्राम	क्रम सं. ब्लॉक नं.	क्षेत्र	हैक्टेयर	श्रेष्ठ	सेंटी एरिया
1	2	3	4	5	
लीम्बासी	1605	00	17	94	
	1608	00	21	84	
	1609	00	27	05	
	1611	00	06	89	
	1613	00	10	40	
	1624	00	05	04	
	1617	00	00	48	

1	2	3	4	5
लीम्बासी	1623	00	13	39
	1619	00	06	24
	1622	00	15	34
	1620	00	26	27
	1509/1	00	15	08
बैल गाड़ी मार्ग		00	00	65
	1587	00	15	73
कच्छ रोड		00	01	30
	1586	00	29	25
	1575	00	36	94
	1551	00	19	24
	1552	00	10	92
	1553	00	10	14
	831/1, 2	00	24	44
	1495	00	12	48
	1456	00	07	02
	1451	00	11	96
	806/1, 2, 3	00	06	11
	2570	00	03	90
बैलगाड़ी मार्ग		00	00	52
	807/1, 2	00	08	75
	1425	00	08	84
	1424	00	07	80
सब माइनर		00	01	30
	6971	00	07	02
बैल गाड़ी मार्ग		00	00	65
	570	00	22	10
	382/1, 2, 3	00	19	50
	577	00	08	32
	378	00	03	95
	596	00	01	32
	485/1, 3	00	16	77
	486/1, 2, 3	00	04	36
	374	00	00	84
	488	00	03	45
	487/1	00	06	84
	608	00	05	76
	270/1, 2, 4	00	16	90
	632	00	10	92
	631	00	21	45
	659	00	04	68
	660	00	07	80
	661	00	09	36
मातार-नारायण		00	02	99
	349	00	06	76
	348	00	07	15
	207/1, 2	00	12	78
	345	00	09	88
	321	00	01	32
	322	00	09	84
	323	00	06	50

1	2	3	4	5
બેલ ગાંધી માર્ગ	00	01	17	
180/ 2, 3, 5	00	01	56	
318	00	04	29	
311	00	07	28	
307	00	06	24	
299	00	05	98	
301	00	02	47	
298	00	70	70	
297	00	04	81	
295	00	00	18	
296	00	14	47	
બેલ ગાંધી માર્ગ	00	00	05	
274/ 2	00	00	78	
31	00	00	98	
લીમબાસી-મીઝિતરા				
રોડ	00	04	88	
126/ 1, 2, 3, 4	00	13	65	
202	00	06	76	
125/ 1, 2, 3	00	12	74	
185	00	08	32	
186	00	00	65	
ગીરી અપાર પ્રાઈ. ન.				
લિમિ	00	04	55	
કુલ	07	17	89	

[સં. અ. - 14016/3/95-ગી. પી.]

અર્ચરુ મેન, નિરેગક

New Delhi, the 20th October, 1995

S.O.2896.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of gas from Kanwada E.P.S. to G.E. APAR PVT. LTD. LIMBASI in Gujarat State, pipeline should be laid by Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule appended hereto:

Now, therefore, in exercise of the powers conferred by sub-section (i) of the Section 3 of the Petroleum and Minerals Pipe lines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Gas Authority of India Ltd., Darpan Building R.C. Dutt, Vadodara-390005.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

2522 GI/95-2

SCHEDULE
PIPELINE FROM KANAWADA EPS TO GE APAR AT
LIMBASI

State : Gujarat Taluka : Matar Dist. : Kheda

Village	Sr. No. Block No.	Area		
		Hactare	Acre	Centiare
1	2	3	4	5
Limbasi	1605	00	17	94
	1608	00	21	84
	1609	00	27	03
	1611	00	06	89
	1613	00	10	40
	1624	00	05	04
	1617	00	00	48
	1623	00	13	39
	1619	00	06	24
	1622	00	15	34
	1620	00	26	27
	1509/1	00	15	08
	Cart Track	00	00	65
	1587	00	15	73
	Kaccha Road	00	01	30
	1586	00	29	25
	1575	00	36	94
	1551	00	19	24
	1552	00	10	92
	1553	00	10	14
	831/1,2	00	24	44
	1495	00	12	48
	1456	00	07	02
	1451	00	11	96
	806/1,2,3	00	06	11
	2570	00	03	90
	Cart Track	00	00	52
	807/1,2	00	08	75
	1425	00	08	84
	1424	00	07	80
	Sub Minor	00	01	30
	697/1	00	07	02
	Cart Track	00	00	65
	570	00	22	10
	382/1,2,3	00	19	50
	577	00	08	32
	378	00	03	95
	596	00	01	32
	485/1,3	00	16	77
	486/1,2,3	00	04	36
	374	00	00	84
	488	00	03	45
	487/1	00	08	84
	608	00	05	76
	270/1,2,5	00	16	90
	632	00	10	92
	631	00	21	45
	659	00	04	68
	660	00	07	80
	661	00	09	36
	Matar-Tarapur	00	02	99
	349	00	06	76
	348	00	07	15
	207/1,2	00	12	78
	345	00	09	88

1	2	3	4	5
	321	00	01	32
	322	00	09	86
	323	00	06	50
	Cart Track	00	01	17
	186/2,3,5	00	01	56
	318	00	04	29
	311	00	07	28
	307	00	06	24
	299	00	05	98
	301	00	02	47
	298	00	00	70
	297	00	04	81
	295	00	00	48
	296	00	14	47
	Cart Track	00	00	65
	274/2	00	00	78
	31	00	00	98
	Limbari-Soujitra	00	04	88
	126/1,2,3,4	00	13	65
	262	00	06	76
	125/1,2,3	00	12	74
	185	00	08	32
	186	00	00	65
	GE.APAR Pvt. Ltd.	00	04	55
Grand Total		07	17	89

[No. L-14016/3/95-G.P.]

ARDHENDU SEN, Director

नई दिल्ली, 20 अक्टूबर, 1995

पर. प्रा. 2897.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में कानावाडा ई. पी. एस. से जी. ई. अपार प्रा. लि. लिम्बारी तक पेट्रोलियम के परिवहन के लिए पाइपलाइन गैस अथॉरिटी ऑफ इंडिया लिमिटेड द्वारा बिछाई जानी चाहिए और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्वारा अनुसूची में वर्णित भूमि में उपयोग का अधिकार प्रजित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का प्रजित) अधिनियम 1962 (1962 का 50) को धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार प्रजित करने का अपना प्राण्य एतद्वारा घोषित किया है।

अतः कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आशेष मयन प्राधिकारी गैस अथॉरिटी ऑफ इंडिया लिमिटेड, दर्पण बिल्डिंग, आर. सी. बल रोड, जडीश को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सदेगा, और ऐसा आशेष करने वाला हर व्यक्ति विनिश्चितः यह भी वाचन करेगा कि क्या यह वास्तविक है कि उसकी मुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी को मार्फत।

अनुसूची				
कानावाडा ई. पी. एस. से जी. ई. अपार				
लिम्बारी पाइप लाइन				
राज्य : गुजरात	तालुका : मातार	जिला : खेडा		
ग्राम	क्रम सं०	क्षेत्र		
	वर्गीक नं.	हेक्टेयर	क्षेत्र	सेंटी
		परिया		
वासतागा	444	00	31	20
	445	00	07	80
	446	00	01	04
	447/1	00	36	36
	448	00	05	85
	450	00	14	32
	बैल गाड़ी मार्ग	00	00	65
	451	00	12	22
वासतागा कानावाडा				
	रोड	00	01	89
	531	00	02	73
	530	00	05	20
	529/ए, बी	00	11	05
	536	00	19	37
	बैल गाड़ी मार्ग	00	00	91
	573	00	04	42
	572	00	10	14
	575	00	03	25
	570	00	15	60
	569	00	00	88
	559	00	02	86
	562	00	07	80
	561/ए, बी	00	11	44
	564	00	08	84
कच्छ रोड से				
	लक्ष्मीपुरा	00	01	56
	644	00	21	84
	673	00	17	68
	635	00	09	65
	674	00	09	52
	675	00	12	74
	678	00	10	66
	677	00	17	42
	676	00	17	68
	नाला	00	01	04
	756	00	01	43
	753	00	14	39
	749	00	12	22
	747	00	15	60
	759	00	11	44
	760	00	08	32
कुल		04	81	07

[गं. एल. - 14016/3/95-जी. पी.]

अर्धेन्दु सेन, निदेशक

New Delhi, the 20th October, 1995

S.O. 2897.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of gas from Kanawada E.P.S. to G.E. APAR PVT. LTD. LIMBASI in Gujarat State, pipeline should be laid down by Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule appended hereto:

Now, therefore, in exercise of the powers conferred by sub-section (i) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Gas Authority of India Ltd., Darpan Building R.C. Dutt, Vadodra-390005.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

PIPELINE FROM KANAWADA EPS TO GE APAR AT LIMBASI

State : Gujarat Taluka : Matar Dist. : Kheda

Village	Sr. No. Block No.	Area		
		Hectare	Are	Centiare
1	2	3	4	5
Vastana	444	00	31	20
	445	00	07	80
	446	00	01	04
	447/1	00	36	36
	448	00	05	85
	450	00	14	32
	Cart Track	00	00	65
	451	00	12	22
	Vastana-Kanawada Rd.	00	01	89
	531	00	02	73
	530	00	05	20
	529/A,B	00	11	05
	536	00	19	37
	Cart Track	00	00	91
	573	00	04	42
	572	00	10	14
	575	00	03	25
	570	00	15	60
	569	00	00	88
	559	00	02	86
	562	00	07	80
	561/A,B	00	11	44
	564	00	08	84
	Kaccha Road to Laxmipura	00	01	56
	644	00	21	84
	673	00	17	68
	635	00	03	65

1	2	3	4	5
	674	00	09	52
	675	00	12	74
	678	00	10	66
	677	00	17	42
	676	00	17	68
	Nalla	00	01	04
	756	00	01	43
	755	00	14	30
	749	00	12	22
	747	00	15	60
	759	00	11	44
	760	00	08	32
Grand Total		04	84	07

[No. L-14016/3/95-G.P.]

ARDHENDU SEN Director

नई दिल्ली, 20 अक्टूबर, 1995

का. आ. 2898 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि संकलित में यह आवश्यक है कि गुजरात राज्य में गोभासन सी. टी. ऐफ. से विजयपुर रोड तक पेट्रोलियम के परिवहन के लिए पाइप-लाइन गैस अथॉरिटी ऑफ इंडिया लिमिटेड द्वारा बिछाई जानी चाहिए। और यतः यह प्रतीत होता है कि ऐसी जगहों को बिछाने के प्रयोजन के लिए एतद्द्वारा अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उक्त भूमि के लोके पाइप-लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, गैस अथॉरिटी ऑफ इंडिया लिमिटेड, दफ्तर बिल्डिंग, आर. सी. दत्त रोड, बड़ौदा को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा, और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितः यह भी कबल करेगा कि क्या यह आहूत है कि उसकी सुनवाई अवश्य होगी कि किसी विधि व्यवसायी की मार्फत।

गोभासन सी. टी. ऐफ. से विजयपुर रोड

राज्य : गुजरात		तालुका : मेहसाणा		डीस्ट्रिक्ट : मेहसाणा	
गांव		सर्वे नं. प्लॉक नं.		एरिया हेक्टेयर एकड़ से. टी. आर	
1	2	3	4	5	
गोभासन	81	00	04	60	
	83	00	01	70	
	82	00	02	70	
	81	00	04	65	
	काटेदूक	00	00	40	
	85	00	03	18	
	66	00	03	75	

1	2	3	4	5
सोभासन	67	00	—	—
	68	00	01	00
	68	00	01	05
	70	00	00	35
	64	00	02	20
	69	00	01	45
	60	00	01	85
	44	00	—	—
	45	00	02	75
	46/1	00	03	45
	43			
	47	00	04	15
	काटट्रेक	09	00	45
	41	00	07	49
कुकास	काटट्रेक	00	01	10
	24	00	03	70
	276	00	02	65
	283	00	13	55
मेहसाणा बिजयपुर रोड	280	00	05	10
	290	00	04	10
		00	02	00
	303	00	02	00
हेबुवा	96	—	—	—
	100	00	05	90
	101	00	00	65
	भोएनजी सी रोड	00	00	45
	99	00	07	20
	106	00	04	30
	भोएनजीसी	00	00	35
	कण्ठा रोड			
	109	00	11	80
	112	00	01	30
	119	00	00	38
रोड सोभासन से हेबुवा गांव	116	00	03	33
	117	00	01	75
		00	00	40
	167	00	—	—
	166	00	03	25
	काटट्रेक	00	00	55
	158	00	00	95
	165	00	07	05
	160	00	09	40
	288			
	178			

[सं. एन.—14016/19/94—जी.-पी.]

अधिरु सेन, निदेशक

New Delhi the 20th October, 1995

S.O. 2898.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of Gas from Shobhasan C.T.F. to Vijaipur Road in Gujarat State pipeline should be laid by Gas Authority of India Ltd.

AND WHEREAS it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule appended thereto :

NOW THEREFORE, in exercise of the powers conferred by sub-section (i) of the Section 3 of the Petroleum and Minerals Pipe lines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962) the Central Government hereby declares its intention to acquire the right of user therein.

PROVIDED THAT any person interested in the said and may, within 21 days from the date of this notification, object to the laying of the pipeline one under the land to the Competent Authority Gas Authority of India Ltd., Darpan Building R.C. Dutt VADODARA 390005.

AND every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

SOBHASAN CTF TO VIJA PUR ROAD

State : Gujarat Taluka Maheshana District Mahesana

Village	Sr. No.		Area		
	Block	No.	Hect	are	Centiare
Sobhasan	84		00	04	60
	83		00	01	70
	82		00	02	70
	81		00	04	65
	Cart Track		00	00	40
	65		00	03	18
	66		00	03	75
	67		00	—	—
	69		00	01	00
	68		00	01	05
	70		00	00	35
	64		00	02	20
	69		00	01	45
	60		00	01	85
	44		00	—	—
	45		00	02	75
	46/1		00	03	45
	43				
	47		00	04	15
	Cart Track		00	00	45
KUKAS	41		00	07	40
	Cart Track,		00	01	10
	29		00	03	70
	276		00	02	65
	283		00	13	55
	289		00	05	10
	290		00	04	10
	Mahesana-Vija pur Road		00	02	00
	303		00	02	00
	96		—	—	—
HEBUWA	100		00	05	90
	101		00	00	65
	ONGC ROAD		00	00	45
	99		00	07	20

(1)	(2)	(3)	(4)	(5)
HEBU WA	106	00	04	30
	ONGE Kachha Road	00	00	35
	109	00	11	80
	112	00	01	30
	119	00	00	38
	116	00	03	33
	117	00	01	75
	Road Sobhasan to Abba village	00	00	40
	167	00	—	—
	166	00	03	25
	Cart Track	00	00	55
	158	00	00	95
	165	00	07	05
	160	00	03	40
	288			
	178			

[No. L-14016/19/94-G.P.]
ARDHENDU SEN, Director

नई दिल्ली, 20 अक्टूबर, 1995

का. प्रा. 2899:—यतः पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अधिनियम, 1962 (1962 का 50) की धारा की 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस संश्लेषण की अधिसूचना का. प्रा. 519 (अ) तारीख 2-6-95 द्वारा भारत सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइन बिछाने के प्रयोजन के लिए अर्जित करने का अपना प्रावधान घोषित किया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

अतएव, भारत सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना के संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अतः अब उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त अधिकारों का प्रयोग करते हुए भारत सरकार एतद्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

अतः इस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त भूमि में उपयोग का अधिकार भारत सरकार से निहित होने के बजाय भारतीय गैस प्राधिकरण लिमिटेड में सभी बाधाओं से मुक्त रूप से जीवना के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

विजयपुर—दादरी गैस पाइपलाइन परियोजना

ग्राम : म्याना, तहसील : गुना, जिला : गुना

क्रमांक	खसरा नं.	सर्वे का वह क्षेत्रफल जिसमें भार. ओ. यु. प्रस्थापित किया जाता है (हेक्टेयर में)
01.	879/1	0.1360
		0.1360

[सं. एल.-14016/7/94-जी. पी.]

अर्धेन्दु सेन, निदेशक

New Delhi, the 20th October, 1995

S.O. 2899.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 519 (E) dated 2-6-95 under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for purpose of laying pipe line.

AND WHEREAS the Competent Authority has under sub-section (1) of section 5 of the said Act submitted report to the Government.

AND FURTHER whereas the Central Government has after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

NOW THEREFORE in exercise of the power conferred by sub-section (1) of the section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule to this appended notification hereby acquired for laying the pipeline.

AND FURTHER in exercise of power conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Gas Authority of India Ltd., free from all encumbrances.

SCHEDULE

VIJAI PUR - DADRI GAS PIPELINE PROJECT

Village : MIANA, TEHSIL : GUNA, DISTRICT : GUNA

Sl. No.	Survey No.	Area to be acquired for ROU in Hectare
(1)	(2)	(3)
01.	879/1	0.1360
	Total	0.1360

[No. L-14016/7/94 G.P.]

ARDHENDU SEN, Director

नई दिल्ली, 20 अक्टूबर, 1995

New Delhi, the 20th October, 1995

का. भा. 2900.—यतः पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय की अधिसूचना का. भा. 1018 तारीख 2-4-95 द्वारा भारत सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइन बिछाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित किया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

तत्पश्चात् भारत सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अतः अब उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त अधिकारों का प्रयोग करते हुए भारत सरकार एतद्-द्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के प्रयोजन के लिए एतद्-द्वारा अर्जित किया जाता है।

अतः इस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार में निहित होने के बजाय भारतीय गैस प्राधिकरण लिमिटेड में सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

विजयपुर—बाधरी गैस पाइप लाइन परियोजना

ग्राम : सिंगवासा, तहसील : गुना, जिला : गुना

क्रमांक	खसरा नं.	सर्वे का वह क्षेत्र जिसमें धार. ओ. यू. अध्यापित किया जाना है (हेक्टेयर में)
01.	399	0.0864
02.	392	0.5940
03.	398/2	0.7632
04.	400	0.0360
05.	237/1/2	0.3672
06.	238	0.0189
07.	401/1/2	0.1728
08.	234/1/2	0.1701
09.	234/2	0.0567
10.	421/5	0.0052
11.	403/2	0.0972
कुल :—		2.3677

S.O. 2900.—whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 1018 dated 2-4-95 under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for purpose of laying pipeline.

And whereas the Competent Authority has under sub-section (1) of section 6 of the said Act, submitted report to the Government.

And further whereas the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now therefore, in exercise of the power conferred by sub-section (1) of the section 6 of the said Act, the Central Government hereby declare that the right of user in the said lands specified in the schedule to this appended notification hereby acquired for laying the pipeline.

And further in exercise of power conferred by sub-section (4) of that section the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Gas Authority of India Ltd., free from all encumbrances.

SCHEDULE

VIJAIPUR DADRI GAS PIPELINE PROJECT

Village : Singwasa, Tehsil : Guna District : Guna

Sr. No.	Survey No.	Area to be acquired for R.O. U. in Hectare
(1)	(2)	(3)
01.	399	0.0864
02.	392	0.5940
03.	398/2	0.7632
04.	400	0.0360
05.	237/1/2	0.3672
06.	238	0.0189
07.	401/1/2	0.1728
08.	234/1/2	0.1701
09.	234/2	0.0567
10.	421/5	0.0052
11.	403/2	0.0972
Total :—		2.3677

[No. L-14016/7/94-G.P.]

ARDHENDU SEN, Director

[सं. एन-14016/7/94-जी. पी.]

अर्धेन्दु सेन, निदेशक

स्वास्थ्य और परिवार कल्याण मंत्रालय

1

2

3

(स्वास्थ्य विभाग)

नई दिल्ली, 20 सितम्बर, 1995

का. भा. 2901 :—केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद्, अधिनियम, 1956 (1956 का 102) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा—11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के पश्चात् उक्त अधिनियम की पहली अनुसूची का और संशोधन करती है, अर्थात् :—

उक्त अधिनियम में पहली अनुसूची में "कालीकट विश्वविद्यालय" में संबंधित प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टियाँ अन्तर्गम्य की जाएंगी, अर्थात् :—

चिकित्सा संस्थान/ विश्वविद्यालय	मान्यता प्राप्त चिकित्सीय ग्रहंता	रजिस्ट्रीकरण के लिए संश्लेषण
1	2	3
चौधरी चरण सिंह विश्वविद्यालय, मेरठ	बैचलर ऑफ मेडिसिन एण्ड बैचलर ऑफ सर्जरी डाक्टर ऑफ मेडिसिन (भेषज गुण विज्ञान) डाक्टर ऑफ मेडिसिन (चिकित्सा विज्ञान)	एम. बी. बी. एम. एम. डी. भेषज गुण विज्ञान एम. डी. (चिकित्सा विज्ञान)

डाक्टर ऑफ मेडिसिन
(साधारण चिकित्सा)एम. डी. (साधारण
चिकित्सा)मास्टर ऑफ सर्जरी
(साधारण सर्जरी)एम. एस. (साधारण
सर्जरी)डा. ऑफ मेडिसिन
(प्रसूति और स्त्रीरोग)एम. डी. (प्रसूति और
स्त्रीरोग विज्ञान)डाक्टर ऑफ मेडिसिन
(शरीर क्रिया विज्ञान)एम. डी. (शरीर क्रिया
विज्ञान)डाक्टर ऑफ मेडिसिन
(सामाजिक और निवारक
चिकित्सा)एम. डी. (सामाजिक
और निवारक चिकित्सा)डाक्टर ऑफ मेडिसिन
(पेडियाट्रिक्स)

एम. डी. (पेडियाट्रिक्स)

ऑफिशलमोलॉजी में डिप्लोमा डी. ओ.

डाक्टर ऑफ मेडिसिन
(संवेदनाहरण विज्ञान)एम. डी. (संवेदनाहरण
विज्ञान)संवेदनाहरण विज्ञान में
डिप्लोमा

डी. ए.

मास्टर ऑफ सर्जरी
(अस्थि विज्ञान)एम. एस. (अस्थि
विज्ञान)

ये अर्जताएँ मान्यता प्राप्त चिकित्सीय ग्रहंताएँ केवल तब होंगी जब चौधरी चरण सिंह विश्वविद्यालय द्वारा 17 जनवरी, 1994 को या उसके पश्चात् प्रकाश की गई हो।

[का. सं. V-11025/33/95-एम. ई. (यू. जी.)]

भारत कृपा मिश्रा, डेस्क अधिकारी

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

New Delhi, the 20th September, 1995

S.O. 2901 :—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956) (hereinafter referred to as the said Act), the Central Government after consultation with the Medical Council of India hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said Act, in the First Schedule, after the entries relating to 'Calicut University', the following shall be inserted, namely :—

University or Medical Institution	Recognised medical qualification	Abbreviation for registration
1	2	3
Chaudhary Charan Singh University, Meerut.	Bachelor of Medicine and Bachelor of Surgery Doctor of Medicine (Pharmacology) Doctor of Medicine (Pathology) Doctor of Medicine (General Medicine)	M.B.B.S. M.D. (Pharm.) M.D. (Pathology) M.D. (Genl. Medicine)

Master of Surgery (General Surgery)	M.S. (Genl. Surgery)
Doctor of Medicine (Obstetrics and Gynaecology)	M.D. (Obst. and Gynae.)
Doctor of Medicine (Physiology)	M.D. (Physiology)
Doctor of Medicine (Social and Preventive Medicine)	M.D. (Soc. and Prev. Med.)
Doctor of Medicine (Paediatrics)	M.D. (Paed.)
Diploma in Ophthalmology	D.O.
Doctor of Medicine (Anaesthesiology)	M.D. (Anaes.)
Diploma in Anaesthesiology	D.A.
Master of Surgery (Orthopaedics)	M.S. (Ortho.)

These qualifications shall be recognised qualifications only when granted by the Chaudhary Charan Singh University on or after 17th January, 1994.

(F. No.V.11025/33/95-ME(UG))

S. K. MISHRA, Desk Officer

नई दिल्ली, 12 अक्टूबर, 1995

का.आ.2902.- होम्योपैथी केन्द्रीय परिषद् अधिनियम, 1973 (1973 का 59) की उपधारा (1) के खंड (ख) के उपबंधों के अनुसरण में, डा. एस. राधाकृष्णन को, 28 दिसम्बर, 1994 को तमिलनाडु, डा. एम.जी.आर. आयुर्विज्ञान विश्वविद्यालय, मद्रास के होम्योपैथी संकाय के सदस्यों द्वारा अपने में से केन्द्रीय होम्योपैथी परिषद् का सदस्य निर्वाचित किया है।

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के तत्कालीन स्वास्थ्य और परिवार नियोजन मंत्रालय (स्वास्थ्य विभाग) की अधिसूचना सं. का. आ. 492(अ), तारीख 6 अगस्त, 1994 में निम्नलिखित संशोधन करती है, अर्थात् :-

उक्त अधिसूचना की सारणी में, "धारा 3 की उपधारा (1) के खंड (ख) के अधीन निर्वाचित" शीर्षक के नीचे

क्रम सं. 7 और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित क्रम संख्यांक और प्रविष्टियां रखी जाएंगी, अर्थात्:-

"7 डा. एस. राधाकृष्णन, तमिलनाडु डा. एम.जी. प्रधानाचार्य, राजकीय होम्योपैथी आर. आयुर्विज्ञान विश्व-आयुर्विज्ञान कालेज, विद्यालय, मद्रास (1) तिरुमंगलम मदुरै, तमिलनाडु

[सं. बी.-27021/46(15)/94-होम्यो-ई.यू.]
जी० सी० मेहुला, डेस्क अधिकारी (होम्यो.)

पाद टिप्पण: मूल अधिसूचना सं. का. आ. 482(अ), तारीख 6 अगस्त, 1994 द्वारा भारत के राजपत्र में प्रकाशित की गई थी और तत्पश्चात् उसमें अधिसूचना सं. का. आ. 740(अ) तारीख 29 अगस्त, 1990, सं. का.आ. 547 तारीख 27 जनवरी, 1992 और सं. का.आ. 1263 तारीख 27 अप्रैल, 1992 द्वारा संशोधन किए गए।

New Delhi, the 12th October, 1995

S.O. 2902.—Where as in pursuance of the provisions of clause (b) of sub-section (1) of section 3 of the Homoeopathy Central Council Act, 1973 (59 of 1973) Dr. S. Radhakrishnan has been elected on the 28th December, 1994 from amongst themselves by the members of the Faculty of Homeopathy of the Tamil Nadu Dr. M.G.R. Medical University Madras as a member to the Central Council of Homeopathy.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the said Act, the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Health and Family Planning (Department of Health No. S.O. 482 (E), dated the 6th August, 1974 namely :

In the Table to the said notification, under the heading "elected under clause (b) of sub-section (1) of section 3", for serial number 7 and the entries relating thereto, the following serial number and entries shall be substituted, namely :

(1)	(2)
"7. Dr. S. Radhakrishnan Principal, Government Homoeopathic Medical College, Thirumangalam, Madura (Tamil Nadu)	Tamil Nadu. Dr. M.G.R. Medical University, Madras."

[No. V.-27021/46 (15)/94.Homoeo-EU]
B.C. MEHTA, Desk Officer (Homoeo)

Foot Note.—The Principle notification was published in the Gazette of India vide No. S.O. 482 (E) dated the 6th August, 1974 and subsequently amended vide notification No. S.O. 740 (E) dt. 29th August, 1990, No. S.O. 547 dated 27th January, 1992 and No. S.O. 1263 dated 27th April, 1992.

नई दिल्ली, 16 अक्टूबर, 1995

New Delhi, the 16th October, 1995

का.आ. 2993.—केन्द्रीय सरकार ने, भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 3 की उपधारा (1) के खण्ड (क) के अनुसरण में और असम सरकार के परामर्श से डा. पूर्णा कान्ता कांवर निदेशक, आयुर्विज्ञान शिक्षा, असम को अधिसूचना के जारी करने की तारीख से भारतीय आयुर्विज्ञान परिषद् का सदस्य नाम निर्देशित कर दिया है ;

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 3 की उपधारा (1) के उपबंधों के अनुसरण में, भारत सरकार के तत्कालीन स्वास्थ्य मंत्रालय की अधिसूचना सं. का.आ. 138, तारीख 9 जनवरी, 1960 का निम्नलिखित और संशोधन करती है, अर्थात् :-

उक्त अधिसूचना में, "धारा 3 की उपधारा (1) के खण्ड (क) के अधीन नामनिर्देशित" शीर्षक के नीचे, क्रम सं. 9 और उससे संबंधित प्रविष्टि के स्थान पर निम्नलिखित क्रम सं. और प्रविष्टि रखी जाएगी, अर्थात् :-

"9. डा. पूर्णा कान्ता कांवर,
निदेशक, आयुर्विज्ञान शिक्षा,
असम, सरकार,
हाउसफेड कॉम्प्लेक्स,
लास्टगेट, गुवाहाटी-6"।

[संख्या वी. - 11013/4/95-एम ई (यू जी)]

एस.के. मिश्र, डेस्क अधिकारी

S.O. 2903.—Whereas the Central Government in pursuance of clause (a) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) and in consultation with the Government of Assam have nominated Dr. Purna Kanta Konwar, Director, Medical Education, Assam to be a member of the Medical Council of India with effect from the date of issue of the notification;

Now, therefore, in pursuance of the provisions of sub-section (1) of section 3 of the said Act, the Central Government hereby makes the following further amendment in the notification of the Government of India in the then Ministry of Health number S.O. 138 dated the 9th January 1960, namely :-

In the said notification, under the heading "Nominated under clause (a) of sub-section (1) of section 3" for serial number 9 and the entry relating thereto, the following serial number and entry shall be substituted, namely :-

"9. Dr. Purna Kanta Konwar,
Director Medical Education,
Government of Assam,
Housefed Complex,
Lastgate,
Guwahati 6".

[No. V-11013/4/95-ME(UG)]
S. K. MISHRA, Desk Officer

नई दिल्ली, 16 अक्टूबर, 1995

का.आ. 2904 .—केन्द्रीय सरकार ने भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 3 की उपधारा (i) के खंड (क) के अनुसरण में और उत्तर प्रदेश सरकार से परामर्श करके डा० डी. के. निगम; निदेशक

प्रोफेसर एवं अध्यक्ष, कार्याचिकित्सा विभाग, मेडिकल कलेज, इलाहाबाद को इस अधिसूचना के जारी होने की तारीख से भारतीय आयुर्विज्ञान परिषद् का सदस्य नामनिर्दिष्ट किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 3 की उपधारा (1) के उपबंधों के अनुसरण में भारत सरकार के तत्कालीन स्वास्थ्य मंत्रालय की अधिसूचना सं. का.आ. 138, तारीख 9 जनवरी, 1960 में निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में, “धारा 3 की उपधारा (1) के खंड (ड) के अधीन नामनिर्दिष्ट” शीर्षक के नीचे क्रम संख्यांक 2 और उससे संबंधित प्रविष्टि के स्थान पर निम्नलिखित क्रम संख्यांक और प्रविष्टि रखी जाएगी, अर्थात् :—

“2. डॉ. डी. के. निगम,
निदेशक प्रोफेसर एवं अध्यक्ष,
कार्याचिकित्सा विभाग,
मेडिकल कलेज,
इलाहाबाद।”

[सं. वी.-11013/19/95-एम ई (यू जी)]

शरत कुमार मिश्र, डेस्क अधिकारी

New Delhi, the 16th October, 1995

S.O. 2904.—Whereas the Central Government in pursuance of clause (a) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) and in consultation with the Government of Uttar Pradesh have nominated Dr. D. K. Nigam, Director, Professor and Head of the Department of Medicine, Medical College, Allahabad to be a member of Medical Council of India with effect from the issue of this notification;

Now, therefore, in pursuance of the provisions of sub-section (1) of section 3 of the said Act, the Central Government hereby makes the following further amendment in the notification of Government of India in the then Ministry of Health number S.O. 138 dated 9th January, 1960, namely :—

In the said notification, under the heading “Nominated under clause (a) of sub-section (1) of section 3” for serial number 2 and the entries relating thereto, the following serial number and entries shall be substituted, namely :—

“2. Dr. D. K. Nigam,
Director,
Professor and Head,
Department of Medicine,
Medical College,
Allahabad.”

[No. V-11013/19/95-ME(UG)]
S. K. MISHRA, Desk Officer

कोयला मंत्रालय

नई दिल्ली, 18 अक्टूबर, 1995

का.आ. 2905.—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 4 की उपधारा (1) के अधीन भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii), तारीख 25 मार्च, 1995 में प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना सं. का.आ. 777, तारीख 16 फरवरी, 1995 द्वारा उस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 526.43 हेक्टर (लगभग) या 1300.86 एकड़ (लगभग) है, कोयले का पूर्वोक्षण करने के अपने आशय की सूचना दी थी।

और केन्द्रीय सरकार का यह समाधान हो गया है कि उक्त भूमि के भाग में कोयला अभिप्राप्त है।

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उससे संलग्न अनुसूची में वर्णित 69.53 हेक्टर (लगभग) या 171.82 एकड़ (लगभग) माप की भूमि या ऐसी भूमि में या उन पर के अधिकारों का अर्जन करने के अपने आशय की सूचना देती है।

टिप्पण : 1. इस अधिसूचना के अंतर्गत आने वाले क्षेत्र के रेखांक सं. सी-1(ई)/III/जे.आर./578-0695, तारीख 22 जून, 1995 का निरीक्षण कलकत्ता, चन्द्रपुर (महाराष्ट्र) के कार्यालय में या कोयला नियंत्रक 1, काउंसिल हाउस स्ट्रीट, कलकत्ता (पिन 700 001) के कार्यालय में या वेस्टर्न कोलफील्ड्स लि. (राजस्व अनुभाग), कोल इस्टेट, सिविल लाइन्स, नागपुर-440 001 (महाराष्ट्र) के कार्यालय में किया जा सकता है।

टिप्पण : 2 कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध हैं :—

“8. अर्जन की बाबत आपत्तियां :

(1) कोई व्यक्ति जो किसी भूमि में जिसकी बाबत धारा 7 के अधिसूचना निकाली गई है, हितबद्ध है, अधिसूचना के निकाले जाने से तीस दिन के भीतर संपूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का अर्जन किए जाने के बारे में आपत्ति कर सकेगा।

स्पष्टीकरण: इस धारा के अर्थान्तर्गत यह आपत्ति नहीं मानी जाएगी कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए रक्ष्य खनन संक्रियाएं करना चाहता है और ऐसी संक्रियाएं सरकार या किसी अन्य व्यक्ति की नहीं करनी चाहिए।

(2) उपधारा (1) के अधीन प्रत्येक आपत्ति सक्षम प्राधिकारी को लिखित रूप में की जाएगी और सक्षम प्राधिकारी आपत्ति-कर्ता को स्वयं सुने जाने का विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जांच, यदि कोई हो, करने के पश्चात् जो वह आवश्यक समझता है वह या तो धारा 7 की उपधारा (1) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्रवाई के अभिलेख सहित विभिन्न रिपोर्टें केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा।

(3) इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितबद्ध समझा जाएगा जो प्रतिकर में हित का दावा करने का हकदार होता यदि भूमि या ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते हैं।

टिप्पण 3: केन्द्रीय सरकार ने कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कलकत्ता को उक्त अधिनियम के अधीन सक्षम प्राधिकारी नियुक्त किया है।

अनुसूची

नया हिंदुस्तान लालपथ विद्युत विस्तार खंड (फेज-1) चन्द्रपुर क्षेत्र

जिला चन्द्रपुर (महाराष्ट्र)

(रेखांक सं. सी.-1(ई)/III/जे.आर../578-0695, तारीख 22 जून, 1995)

सभी अधिकार

क्र.सं. ग्राम का नाम	पटवारी सिकिल सं.	तहसील	जिला क्षेत्र हैक्टर में	टिप्पणियां
1. माना	9 चन्द्रपुर	चन्द्रपुर	57.63	भाग
2. अरवत	9 चन्द्रपुर	चन्द्रपुर	9.00	भाग
3. चारवत	9 चन्द्रपुर	चन्द्रपुर	2.90	भाग
कुल क्षेत्र			69.53 हैक्टर (लगभग)	
			या	
			171.82 एकड़ (लगभग)	

ग्राम माना में अर्जित किए जाने वाले प्लॉट संख्यांक :

6, 7/1, 7/2, 8/1, 8/2, 8/3, 8/4, 8/5, 9/1, 9/2ए, 9/2बी, 9/3, 9/4, 9/5, 9/6, 9/7, 9/8, 9/9, 10, 11/1, 11/2, 11/3, 12/1, 12/2, 12/3, 12/4, 13/1, 13/2, 13/3, 13/4, 13/5, 14, 15, 16, 17, 18/1, 18/3, 18/4, 18/5, 23/1ए, 23/1बी, 23/2, मार्ग (भाग), नदी (भाग)।

ग्राम अरवत में अर्जित किए जाने वाले प्लॉट संख्यांक :

नदी (भाग)

ग्राम चारवत में अर्जित किए जाने वाले प्लॉट संख्यांक :

नदी (भाग)

सीमा वर्णन :

क--ख रेखा बिंदु "क" से आरंभ होती है और ग्राम अरवत से होकर जाती है, इराई नदी पार करती है और ग्राम माना से होकर आगे बढ़ती है तथा बिंदु "ख" पर मिलती है।

ख--ग रेखा इराई नदी के पूर्वी किनारे के साथ-साथ ग्राम माना से होकर जाती है, फिर प्लॉट संख्यांक 8/1, 18/4, 18/3, 18/5,

17, 16, 15, 13/4, 23/2, 23/1क, 23/1ख, 6 की बाहरी सीमा के साथ-साथ ग्राम माना से होकर आगे बढ़ती है, सड़क पार करती है और सड़क की बाहरी सीमा के साथ-साथ जाती है तथा बिंदु 'ग' पर मिलती है।

ग—घ रेखा ग्राम माना से होकर जाती है, सड़क पार करती है और प्लाट संख्यांक 6,7/1, 7/2, 8/4, 8/1, 8/2 की सीमा के साथ-साथ आगे बढ़ती है तथा बिंदु 'घ' पर मिलती है।

घ—ङ रेखा ग्राम माना से होकर जाती है, इराई नदी पार करती है और ग्राम चारवत से होकर आगे बढ़ती है तथा बिंदु "ङ" पर मिलती है।

ङ—क रेखा इराई नदी के पश्चिमी किनारे के साथ-साथ ग्राम चारवत से होकर जाती है, फिर ग्राम अरवत से होकर आगे बढ़ती है और इराई नदी के पश्चिमी किनारे के साथ-साथ जाती है तथा प्रारंभिक बिंदु "क" पर मिलती है।

[फा. सं. 43015/25/94—एल.एस. इट्यू.]
नरेन्द्र भगत, निदेशक

MINISTRY OF COAL

New Delhi, the 18th October, 1995

S.O.2905.—Whereas by the notification of the Government of India in the Ministry of Coal No. S.O. 777 dated the 16th February, 1995 published in the Gazette of India, Part-II, Section-3, Sub-Section (ii) dated the 25th March, 1995 under Sub-Section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development Act, 1957 (20 of 1957), the Central Government gave notice of its intention to prospect for coal in 526.43 hectares (approximately) or 1300.86 acres (approximately) of the lands in the locality specified in the Schedule annexed to that notification :

And whereas the Central Government is satisfied that coal is obtainable in a part of the said lands ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the lands measuring 69.53 hectares (approximately) or 171.82 acres (approximately) and all rights in or over such lands as described in the schedule appended hereto ;

Note 1:—The Plan bearing No. C-1(E) III/JR/578-0695 dated the 22nd June, 1995 of the area covered by this notification may be inspected in the office of the Collector, Chandrapur (Maharashtra) or in the office of the Coal Controller, 1, Council House Street, Calcutta (PIN 700001) or in the office of the Western Coalfields Limited (Revenue Section), Coal Estate, Civil Lines, Nagpur-440001 (Maharashtra).

Note 2—Attention is hereby invited to the provisions of section 8 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) which provides as follows:—

"8. Objections to Acquisition :

- (1) Any person interested in any land in respect of which a notification under section 7 has been issued may within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or of any rights in or over such land.

Explanation:—It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operations in the land for the production of coal and that such operations should not be undertaken, the Central Government or by any other person.

- (2) Every objection under sub-section (1) shall be made to the competent authority in writing and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall after hearing all such objections and after making such further inquiry if any as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land or make different reports in respect of different parcels of such land or of rights in or over such land to the Central Government containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government.
- (3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act."

Note.—3. The Coal controller, 1, Council House Street, Calcutta has been appointed by the Central Government as the Competent authority under the Act.

SCHEDULE

NEW HINDUSTHAN LALPETH OPENCAST EXTENSION BLOCK (PHASE-I)

CHANDRAPUR AREA

DISTRICT CHANDRAPUR (MAHARASHTRA)

(Plan No. C-1 (E) III/JR/578-0695 dated the 22nd June, 1995)

All Rights:—

Sl. No.	Name of Village	Patwari Circle Number	Tahsil	District	Area in hectares	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Mana	9	Chandrapur	Chandrapur	57.63	Part
2.	Arwat	9	Chandrapur	Chandrapur	9.00	Part
3.	Charwat	9	Chandrapur	Chandrapur	2.90	Part
Total area :					69.53 hectares (approximately) or 171.82 acres (approximately)	

Plot numbers to be acquired in village Mana :

6, 7/1, 7/2, 8/1, 8/2, 8/3, 8/4, 8/5, 9/1, 9/2A, 9/2B, 9/3, 9/4, 9/5, 9/6, 9/7, 9/8, 9/9, 10, 11/1, 11/2, 11/3, 12/1, 12/2, 12/3, 12/4, 13/1, 13/2, 13/3, 13/4, 13/5, 14, 15, 16, 17, 18/1, 18/3, 18/4, 18/5, 23/1A, 23/1B, 23/2, Road (Part), River (Part).

Plot numbers to be acquired in village Arwat :

River (Part),

Plot numbers to be acquired in village Charwat :

River (Part).

Boundary description :

A—B Line starts from point 'A' and passes through village Arwat, crosses Erai River and proceeds through village Mana and meets at point 'B'.

B—C Line passes through village Mana along the eastern bank of Erai River, then proceeds through village Mana along the outer boundary of plot numbers 18/1, 18/4, 18/3, 18/5, 17, 16, 15, 13/4, 23/2, 23/1A, 23/1B, 6 crosses road and passes along the outer boundary of road and meets at point 'C'.

C—D Line passes through village Mana crosses road and proceeds along the outer boundary of plot numbers 6, 7/1, 7/2, 8/4, 8/1, 8/2, and meets at point 'D'.

D—E Line passes through village Mana, crosses Erai River and proceeds through village Charwat and meets at point 'E'.

E—A Line passes through village Charwat along the western bank of Erai River, then proceeds through village Arwat and passes along the western bank of Erai River and meets at starting point 'A'.

[No. 43015/25/94-LSW]

N. BHAGAT, Director

श्रम मंत्रालय

नई दिल्ली, 14 सितम्बर, 1995

का.आ. 2906.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टैलीफॉम डिस्ट्रीक्ट मैनेजर, भोपाल के प्रबंधन के संबंध में निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-95 को प्राप्त हुआ था।

[संख्या एल-40012/70/89-आई आर (डी यू)]

के. वी. वी. उम्मी, डेप्टी अधिकारी

MINISTRY OF LABOUR

New Delhi, the 14th September, 1995

S.O. 2906.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Telecom District Manager, Bhopal and their workmen, which was received by the Central Government on 14-9-1995.

[No. L-40012/70/89-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR (MP).

Case Ref. No. CGIT/LC(R)(19)/1990

BETWEEN

Shri Azad Ahmed C/o Shri Sayeed Zafar Alam, House No. 14, Minori Road, In front of Masjid Madrul Sahib, Bhopal (MP)-462 001.

AND

The Telecom District Manager, Bhopal and Asstt. Engineer, Electricals & Telex, Bhopal (MP)-4620 01.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri Paul, Advocate.

For Management : Shri B. Da'Silva, Advocate.

INDUSTRY : Telecom DISTRICT : Bhopal (MP)

AWARD

Dated : 4-9-1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-40012/70/89-IR(DU) Dated 15-1-1990, for adjudication of the following industrial dispute:—

SCHEDULE

"Whether the termination of Sh. Azad Ahmed, Casual Labour by the Asstt. Engineer, Electricals & Telex vide letter dated 1-8-87/31-7-87 is justified or not? If not, to what relief the workman is entitled for?"

2. The case of the workman is that he was employed from 1-7-1985 as a casual labour. He has continuously worked till 31-8-87; that thereafter the services of the workman were dispensed with by giving him one month's notice vide order dated 31-8-87; that after the termination of the service of the workman the management has given the employment to the workman, who were employed subsequently. The workman has prayed for reinstatement and back wages.

3. The case of the management is that the workman was employed as a casual labour as daily rated mazdoor for casual work; that the workman did not work continuously for more than 240 days in a calendar year; that the allegation that the management has employed subsequently retrenched workmen is baseless and the management has not violated the principle of last come first go.

4. Terms of reference were made the issue in the case.

5. It is an admitted fact that the workman was employed from 1-7-85 as a casual labour. The management has alleged that he was a daily rated employee for casual work.

6. The Hon'ble Supreme Court in case of Ravindra Kumar Mishra Vs. U.P. State Handloom Corporation Ltd. and another (AIR 1987 Sc. 2408) has held that employee in public sector undertaking on temporary basis, if terminated from the service in terms of service rules and the order of termination is innocuous without any stigma nor evil consequences visiting him then order in not open for challenge. It is further observed that the termination from the service of the employee of public sector undertaking terminated in terms of service rules is valid. It is further observed in para 6 of the judgment—

"In a large democracy as ours administration is bound to be impersonal and in regard to public officers whether in Government or public Corporations, assessments have got to be in writing for purposes of record. We do not think there is any justification in the contention of the appellant that once such an assessment is recorded the order of termination made soon thereafter must take the punitive character."

It is further observed in para 11 of the judgment—

"He was a temporary servant and had no right to the post. It has also not been denied that both under the contract of service as also the Service Rules governing him the employer had the right to terminate his services by giving him one month's notice, the order to which excep-

tion is taken is expressly an order of termination in innocuous terms and does not cast any stigma on the appellant nor does it visit him with any evil consequences. In the circumstances, the order is not open to challenge."

7. Consequently, the termination of the workman from the service is just and proper. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer.

नई दिल्ली 5 अक्टूबर, 1995

का.आ. 2907.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार श्री अब्दुल शकूर ताहेर मोहम्मद, माईन आयर के प्रबंधक के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-10-95 को प्राप्त हुआ था।

[संख्या एल-29011/38/91-आई. आर. (विविध)]
बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 5th October, 1995

S.O. 2907.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Shri Abdul Shakoor Taher Mohd., Mine Owner and their workmen, which has received by the Central Government on the 4th October, 1995.

[No. L-29011/38/91-IR(Misc.)]
B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY (CAMP: NAGPUR)

PRESENT:

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/52 of 1992

Employers in relation to the management of Sh. Abdul Shakur Teher Mohamed, Mine Owner, Nagpur.

AND

Their Workmen.

APPARANCES:

For the Management—No appearance.

For the Workmen—No appearance.

Dated, 15th September, 1995

AWARD

The Government of India, Ministry of Labour vide its letter No. L-29011/38/91-IR (Misc.), dated 5th August, 1992 had referred to the following industrial dispute for adjudication

"Whether the termination of 34 workmen i.e., Shri Shio Prasad Chugaya and others 33 (1st enclosed) by Shri Abdul Shakur Teher Mohamed Iron Ore Mine Owner on the ground of reduction lease area and no sale of Iron Ore Material is legal & justified. If not, to what relief the workman is entitled?"

2. The Union filed its Statement of Claim and contended that the action which is taken by the management is not justified, it is in contravention of Sec. 25F and 25N of the I.D. Act. They had also taken some other contentions.

3. The Management resisted the claim by their written statement at Ex. 5.

4. My learned predecessor framed issues at Ex. 6.

5. The matter was for leading evidence on behalf of the Union. As the Union is from Nagpur side for their convenience the matter was kept at Nagpur on the last occasion i.e., on 20th September, 1994. On that day the Union representative remained absent, nobody turned up. Again the matter was posted to 22nd September, 1994 but it was of no use. Instead of dismissing the matter on that day it was adjourned to Bombay for hearing on 27th December, 1994. It being a holiday it was posted to 6th January, 1995. The union representative remained absent again. To suit the Union the matter was posted at Nagpur for leading evidence on 12th September, 1995. The Union and the Management both remained absent even though they were duly served. Then the matter was adjourned to 15th September, 1995. Today also both of them remained absent. It appears that the Union does not want to lead any evidence in the matter and proceed further. I therefore do not find it necessary to deal in detail the Statement of Claim and the written Statement. Further more as there cannot be any reasons for the findings on the issues except that the Union does not want to lead any evidence. Hence the action of the management to be treated as justified. In the result I pass the following order.

ORDER

1. The termination of 34 workmen i.e. Shri Shio Prasad Chugaya and other 33 by Shri Abdul Shakur Teher Mohd. Iron Ore Mine Owner on the ground of reduction of lease area and no sale of iron ore material is legal and justified.

2. No order as to costs.

S. B. PANSE, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 1995

का.आ. 2908.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विशाखापटनम पोर्ट ट्रस्ट के प्रबंधक के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, विशाखापटनम के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-95 को प्राप्त हुआ था।

[संख्या एल-34011/1/90-आई आर (विविध)]
बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 5th October, 1995

S.O. 2908.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Visakhapatnam Port Trust and their workmen, which has received by the Central Government on the 5-10-95.

[No. L-34011/1/90-IR(Misc.)]
B. M. DAVID, Desk Officer

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT VISAKHAPATNAM

PRESENT :

Smt. G. Joishree, B.Sc., LL.M., Chaidman & Presiding
Officer.

Wednesday, the 30th day of August, 1995

I.T.I.D. No. 6/90 (Central)

BETWEEN :

The General Secretary,
Port & Dock Employees Association,
Rama Padma Nilayam,
D. No. 14-25-32 'A' (Upstairs)
Dandu Bazar,
Visakhapatnam.

... Applicant.

AND

The Chairman,
Visakhapatnam Port Trust,
Visakhapatnam—35.

... Respondent.

This dispute coming on for final hearing before me in the presence of Sri V. Balaram and Sri S. Ramarao, Union Leader for workman and Sri B. Gowri Sankar Raju and Sri N. Sanni Babu, Advocates for management upon hearing the argument of both sides while court passed the following :

AWARD

(1) In this case the Government of India referred the dispute existing between Visakhapatnam Port Trust and their 3 workmen under clause (d) of Sub-section (1) of Sub-Section 2A of Section 10 of the Industrial Disputes Act, 1947 in the following terms :

- (1) "Whether the action of the management of Visakhapatnam Port Trust in awarding punishment on Shri D. Pushpa Raju Operator Gr. II/OHC of reduction of his pay by one stage for one year besides denial of LTC facility for the block periods of 1986—89 and 1990—93 is justified. If not, what relief is the workman entitled to?"
- (2) "Whether the action of the management of Visakhapatnam Port Trust in awarding punishment on Shri L. Ramunaidu, M.V. Driver, GR-II/OHC of reduction of his pay by two stages for a period of one year without cumulative effect is justified. If not, what relief is the workman is entitled to?"
- (3) "Whether the action of the management of Visakhapatnam Port Trust in awarding punishment on Sri Satyanarayana Sahu, Welder GR-I, Port Workshop of reduction of his pay from Rs. 985 to Rs. 959 for a period of one year without cumulative effect on the charge of one year without cumulative effect to him is justified? If not, what relief the said workman is entitled to?"

(2) The above reference involves 3 workmen who are given different punishments by the management on different charges and the same are to be dealt with separately one by one and accordingly they are considered separately as follows :

(1) In the case of Sri D. Pushpa Raju, Operator, GR. II OHC the claim statement is filed by him in this tribunal stating that he was charged by the management with the allegation that he has drawn an amount of Rs. 3,905 on LTC advance during May, 1986 to send his family members to New Delhi and back by Train but not performed the journey and misused the amount so drawn. It is stated that preliminary enquiry was held during which the workman submitted his explanation stating that he was suffering with mental disorder and was admitted in the Government Hospital for mental care after the drawal of the LTC amount. Then without conducting any further enquiry into the matter the management imposed the punishment of reduction of pay by

one stage with cumulative effect, besides denial of LTC facility for two block periods upto 1993. The appellant authority also confirmed the said punishment without considering the certificate produced by the workman from the Government Mental Hospital. It is stated that as he fell sick after drawing the amount, his family members could not proceed on the pilgrimage tour and as he was not having salary during that period he was forced to spent the LTC amount on medical expenditure as there is no other source of income. It is stated that the workman has completely repaid the amount and therefore the above punishment is unwarranted, inhuman and disproportionate.

(4) Written statement is filed by the management opposing the claim and stated that this court has no jurisdiction to interfere with the domestic enquiry which is properly conducted and to adjudicate this dispute. It is stated that the petitioner has taken an advance of Rs. 3,905 for block year 1986—89 for his family members to go to New Delhi and back in the month of May, 1986 and submitted LTC final bill on 24-7-86 claiming for 1st class fair from Waltair to New Delhi and back and also furnished 1st Class ticket numbers. The respondent referred the matter to its Vigilance Officer for verification and the Vigilance Officer found that the ticket numbers furnished by the employee were bogus. The petitioner also admitted in his explanation that his family members did not perform the journey and he did not give any reasons for not performing the journey and agreed to pay back the advance taken by him. It is stated that after considering the statement given by the petitioner, the respondent came to the conclusion that the petitioner preferred an LTC final bill to gain pecuniary advantage by fraudulent means and thus misused the LTC facilities. A chargesheet was issued against the petitioner and departmental enquiry was ordered which was conducted by the enquiry officer and the workman admitted the charge before the enquiry officer. Then show cause notice was issued to the petitioner regarding the punishment and the petitioner did not submit any explanation to the show cause notice. And thereupon the disciplinary authority as per its rules and regulations inflicted the punishment taking a lenient view. The appellate authority confirmed the said punishment after considering the lines of appeal and all the relevant records. It is denied that the petitioner was suffering from mental disorder and was admitted in the Government Hospital for mental care after drawal of the LTC amount stating that it is only an after thought. In view of the fact that the final bill was submitted by him for LTC amount by producing bogus ticket numbers. It is stated that the amount was drawn in the month of May, 1986 and the final bill was submitted on 24-7-86 and he was effected with mental disorder in the month of November, 1986 after 6 months from the date of withdrawing the amount for LTC. Thus, it is stated that the petitioner miscondacted himself cheating the department and the punishment imposed by the disciplinary authority is proper.

(5) The point for consideration is : Whether the action of the management in awarding the punishment to the workman of reduction of his pay by one stage for one year and denial of LTC facility for two block periods, on the above charge is justified ?

(6) The workman, D. Pushpa Raju is charged by the management, or misusing the LTC benefit provided by the management by taking an advance of Rs. 3,905 for the block year 1986 to 1989 for his family members to go to Delhi and back in the month of May, 1986 and submitted final bill on 24-7-86 payment of 1st class fare from Waltair to New Delhi by producing 1st Class ticket numbers which are found to be bogus on a verification by the Vigilance Officer deputed for the purpose by the management. The workman admits that his family members did not perform the journey and further that he utilised the said amount for his medical expenses. Thus, he admits the misuse of LTC advance and pleads an excuse for the same on the ground that his family members could not perform the journey as he was admitted in a mental hospital. The workman does not say anything in his claim statement about the production of bogus 1st class tickets to prove the actual journey. The management did not accept the excuse furnished by the workman on reasonable grounds stating that he was admitted in mental

hospital only in November, 1986 whereas the advance was drawn in May, 1986 and the final bill was submitted in July, 1986, which is much earlier to his admission in mental hospital. Thus, the management found gross and intentional misuse of LTC advance by furnishing bogus 1st class train tickets. Thus, the management found the workman guilty of cheating it and misusing the LTC advance and inflicted the above punishment which is very light having regard to the seriousness of the charge and furnishing false railway tickets. The management took lenient view and inflicted light punishment on humanitarian grounds and I find the same justified in the circumstances. Accordingly, the point is answered in favour of the management and against the workman.

(II) In relation to the workman by name L. Ramunaidu, he filed his claim statement stating that he is levelled with a charge that on 5-9-87, when he was working as Jeep Driver, he has dashed the gate barrier stand at A-6 CISF Security check gate in a most negligent manner at high speed which resulted in severe damage caused to the jeep. It is stated that enquiry was conducted and the enquiry officer held the charge proved and appeal also was dismissed.

(6) The workman challenges the finding of the enquiry officer on the ground that he did not appreciate the evidence properly and that the repairs to the vehicle is not proved. He pleads that the breaks of the vehicle slightly slipped and the vehicle dashed the barrier stand of the gate but no such damage as alleged was caused to the vehicle but only small dent occurred which is negligible. He ultimately pleads that the punishment is disproportionate and not tenable.

(7) In the written statement filed by the management it opposed the claim statement stating that departmental enquiry was conducted against the workman on the charge of driving the vehicle in most negligent and careless manner at high speed and dashing to the security check gate as a result of which the vehicle was badly damaged. It is stated that enquiry was conducted by giving reasonable opportunity to the petitioner to defend his case and the enquiry officer submitted his report findings the charge true and the above punishment was imposed taking a lenient view and hearing the workman on the question of quantum of punishment. The plea that the accident occurred due to failure of breaks or due to partial inflation of tyre, is denied, stating that the workman did not establish the same during the enquiry. It is stated that the vehicle sustained so much damage that it was taken to the loco shed from the spot by pulling with another vehicle by means of rope. It is ultimately pleaded that this court has no jurisdiction to adjudicate the dispute.

(8) The point for consideration is - Whether the action of the management in imposing the punishment on the workman by reducing his pay by two stages for a period of one year without cumulative effect is justified?

(9) The workman is charged by the management of gross negligence in driving the vehicle while working as driver and dashing the security check gate resulting in severe damage to the jeep. The Enquiry Officer is appointed and enquiry was conducted was a charge is held proved on which the management inflicted the above punishment. The workman does not complain any illegalities committed by the enquiry officer nor does he complain violation of principles of natural justice while conducting the enquiry. But he merely complains about the appreciation of evidence by the enquiry officer. He states that sufficient evidence was produced on both sides but the enquiry officer did not appreciate the evidence properly and log book was not produced by the management to prove the repairs effected to the vehicle. But the finding of the enquiry officer was based on the evidence produced by both sides before him and the appreciation of evidence is within the scope of power of the enquiry officer and this tribunal cannot reappreciate the evidence and substitute its finding. A perusal of the report of the enquiry officer shows there is no error in his order. His findings are based on the evidence produced before him and are not perverse. He applied his mind and considered the evidence and gave reasons for his finding. He also considered the defence raised by the workman and probability of the same. Thus I do not find any material to interfere with the finding of the enquiry officer.

(10) The next contention raised on behalf of the workman that the punishment is disproportionate and not tenable. The punishment imposed is reduction of his pay by two stages for a period of one year without cumulative effect. The workman is a driver of motor vehicle and his primary duty is to drive the vehicle carefully. He is found to be harsh and grossly negligent in driving the vehicle and causing damage to the same. Having regard to the nature of this charge, the above punishment imposed by the management in order to see that the driver drives in future carefully, is necessary and the same is justified. Accordingly, I hold on this point that the punishment imposed on the workman is justifiable. Thus, the point is answered in favour of the management and against the workman.

(III) With regard to the punishment by the management on the 3rd workman by name Sri Satyanarayana Sahu elder, GR-I Port work shop by reducing his pay Rs. 985 to Rs. 959 for a period of one year without cumulative effect on the charge of subletting the port quarter allotted to him, claim statement is filed by the workman stating that departmental enquiry was conducted against him with regard to the above charge during which the prosecution produced two witnesses and marked two documents. And the workman produced 5 witnesses and marked one document. It is stated that the enquiry officer held the charge not proved but the second respondent who is the disciplinary authority ventured to give a separate findings wholly disagreeing with the findings of the enquiry officer and issued a show cause notice to inflict the above penalty. The workman submitted his explanation but the punishment was confirmed without considering the same. The workman preferred an appeal to Respondent No. 1. But the appellate authority confirmed the punishment stating that it is not excessive without applying his mind and without considering whether the charges are proved or not. He states that the findings given by Respondent No. 2 are vague and he differed with the findings of the enquiry officer saying that the prosecution brought only two witnesses whereas the enquiry officer allowed 5 witnesses on behalf of the defence, which is irrelevant. He states that the lady who was present in the house on 27-5-87 at 11.35 a.m. is their family friend, who came to their house to visit his Mother and signature was obtained from her. She gave evidence before the enquiry officer stating that she along with her family was residing at that time at Seethammadhara but not in the port quarters. He pleaded that he never let out his quarter to anybody at any time and he himself along with his family resided in the quarter allotted to him.

(11) Written statement is filed by the management stating that the disciplinary authority did not accept the findings of the enquiry officer and recorded his own findings basing on the adequate evidence available on record and held the charge proved. Then punishment was inflicted on the delinquent after giving show cause notice and considering his representation and the appellate authority also confirmed the same after considering the relevant records. It is stated that the inspection conducted by the departmental authority on 27-5-1987 revealed that the petitioner let out the quarter allotted to him to an outsider and the petitioner vacated the said quarter on 16-6-87 on his own, prior to the issue of orders cancelling the allotment of quarter. It is stated that from these facts it is evident that the petitioner felt guilty and vacated the quarter knowing well the consequences. It is stated ultimately that the penalty imposed on him is justified. It is also stated that this court has no jurisdiction to adjudicate the dispute.

(12) The points for consideration are :

- (1) Whether the finding of the enquiry officer that the charge is not proved against the delinquent, is vitiated on any ground ?
- (2) Whether the disciplinary authority is justified in disagreeing with the findings of the enquiry officer and whether the finding given by the disciplinary authority is vitiated and liable to be set aside?
- (3) Whether the punishment inflicted on the workman is justified ?

(11) Point No. 1.—This point is whether the finding of the enquiry officer that the charge is not proved against the delinquent, is vitiated on any ground. A perusal of the proceedings conducted by the enquiry officer shows that he has taken all the evidence produced by the management and then the evidence produced by the delinquent and recorded the statement of witnesses produced by both sides by giving opportunity to cross examine the witnesses to both sides and conducted the enquiry impartially. A perusal of his report shows that he restricted the statements given by the witnesses of both sides in his report and also discussed the evidence and gave his finding that the charge is not proved, believing the defence witnesses. A perusal of this report shows that the enquiry officer did not commit any error which vitiates his finding and his finding cannot be stated to be perverse. His report shows that he applied his mind to the facts of the case and considered the evidence and gave his finding. Accordingly, I hold on this point that the finding of the enquiry officer is not vitiated in any manner.

(14) Point No. 2.—This point is whether the disciplinary authority is justified in disagreeing with the finding of the enquiry officer and whether the finding given by the disciplinary authority is vitiated and liable to be set aside? It is true that the disciplinary authority has got power and jurisdiction and is at liberty to disagree with the finding of the enquiry officer but it can do so only on valid and justifiable grounds and appreciating the evidence in his own manner. But in the present case a perusal of the order of the disciplinary authority giving finding disagreeing with the finding given by the enquiry officer shows that the reasons given by him for such disagreement, are not cogent and valid. He states that the delinquent vacated the quarter allotted by the management and shifted to a private house in the town area even prior to the issue of orders cancelling the allotment of the said quarter and before any disciplinary action initiated against him in this regard. He appears to have been prejudiced by the fact of the delinquent vacating the official quarter and shifting to a private house which is not germane to the issue in question. He observed that the enquiry officer did not put searching questions to the delinquent about his present residential address and as to the circumstances which led to his vacating of the quarter soon after his quarter was surprised and before any disciplinary action was initiated against him. Even if it is taken that this aspect is in any manner relevant to the issue of letting out the official quarter by the delinquent, the disciplinary authority himself would have put these questions to the delinquent and considered his answers to the same. But he did not examine the delinquent in this regard, but straight away considered it as a factory for disagreeing with the report of the enquiry officer. If he had any doubt in this aspect and wanted the material he could have recorded the statement of the delinquent himself in this regard and collected other material before giving a different finding against the delinquent. Thus, it is clear that the disciplinary authority gave finding against the delinquent without affording an adequate opportunity to the delinquent to submit his explanation and evidence on the material about the circumstances relied upon by the disciplinary authority for giving finding against him. The other reasons given by the disciplinary authority for finding fault with the finding of the enquiry officer is that he did not use his discretion to decide in allowing five witnesses from defence side and that it might have caused embarrassment. This again is an error committed by the disciplinary authority. The enquiry officer had to record the statements of all the defence witness produced by the delinquent in the interest of justice and the disciplinary authority finding fault with this attitude of the enquiry officer is against the principles of natural justice. The disciplinary authority further observes that the enquiry officer gave much weight to the depositions of 5 defence witnesses by neglecting evidence of two state witnesses. This again is uncalled for in as much as the enquiry officer believed the version of defence witnesses in preference to the version of state witnesses. The disciplinary authority, while making this observation does not give any reason why he believes the state witnesses in preference to the defence witnesses. He appears to have been prejudiced by the fact that the delinquent produced more number of witnesses than the management which is perverse and irrelevant. For all these reasons I find that the disciplinary authority is not justified in disagreeing with the finding of the enquiry officer and further that the finding

of the disciplinary authority is vitiated by erroneous and irrelevant considerations and violating the principles of natural justice. Accordingly, I find this point in favour of the workman and against the management.

15. Point No. 3.—This point is whether the punishment inflicted on the workman is justified? On point No. 1 and 2 above I hold that the finding given by the enquiry officer that the charge levelled against the delinquent is not proved, is not vitiated on any grounds and the disciplinary authority is not justified in disagreeing with the said finding and that the finding given by the disciplinary authority is not valid and the same is set aside. Therefore no charge remains proved against the workman and the imposition of the above punishment on the workman is not justified. Accordingly, I hold on this point that the punishment inflicted on the workman is not justified in the circumstances.

16. Accordingly, I answer this point in favour of the workman and against the management.

17. In the result, in view of my findings above in relation to the three workmen whose disputes are referred by the central government in its reference dated 4th September, 1990 I pass the following award:

- (1) With respect to the workman No. 1 by name D. Pushaparaju the punishment inflicted on him by the management is justified and accordingly nil award is passed.
- (2) With respect to the workman by name D. Ramunaidu the punishment inflicted on him by the management is justified and accordingly nil award is passed.
- (3) With respect to the workman by name Sri Saryanarayana Sahu, the punishment inflicted on him of reduction of his pay from Rs. 985 to Rs. 959 for a period of one year without cumulative effect, is not justified and he is entitled to recover the difference with interest at 10 per cent p.a. Award is passed accordingly.

(Dictated to steno transcribed by her given under my hand and seal of the court this the 30th day of August, 1995.

Smt. G. JAISHREE, Chairman & Presiding Officer

APPENDIX OF EVIDENCE IN I.T.I.D. No. 6/90(C)

WITNESSES EXAMINED

For Workman—None

For Management—None.

DOCUMENTS MARKED

For Workman—NIL.

For Management—None.

नई दिल्ली, 5 अक्टूबर, 1995

का.आ. 2909.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विशाखापटनम पोर्ट ट्रस्ट के प्रबंधन के संबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, विशाखापटनम के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-95 को प्राप्त हुआ था।

[संख्या एल-34011/9/90-आई आर (विविध)]

बी.एम. डेविड, टैक्स अधिकारी

New Delhi, the 5th October, 1995

S.O. 2909.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Visakhapatnam Port Trust and their workmen, which has received by the Central Government on 5-10-1995.

[No. L-34011/9/90-IR (Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT VISAKHAPATNAM

PRESENT :

Smt. G. Jaishree, B.Sc., LL.M.,

Chairman & Presiding Officer

Wednesday, the 30th day of August, 1995

I.T.I.D. No. 5/92(Central)

BETWEEN

The General Secretary,
Port & Dock Employees Association,
Rama Padma Nilayam,
D. No. 14-25-32A (Upstairs),
Dandu Bazar, Maharanipeta,
Visakhapatnam-530002

—Workman

AND

The Chairman,
Visakhapatnam Port Trust,
Visakhapatnam-530 035.

—Management

This dispute coming on for final hearing before in the presence of the workman in person and the management in person upon hearing the arguments of both sides the court passed the following:

AWARD

(1) In this case the Central Government referred the dispute existing between Visakhapatnam Port Trust and their workman in the following terms :

"Whether the action of the management of Visakhapatnam Port Trust is justified in transferring the Khalasis appointed under Mechanical Department ? If not, to what relief the employees are entitled ?"

(2) Claim statement is filed by the union representing the workmen stating that the Ore Handling Complex of Visakhapatnam Port Trust was having sub-stores run by the Chief Mechanical Engineer, who allocated Khalasis daily to various works as per the requirements including the sub-stores. These Khalasis were recruited and appointed by the Chief Mechanical Engineer and their channel of promotions were being maintained and provided by the Chief Mechanical Engineer in the line of Ore Handling Complex. It is stated that in the year 1989 the sub-stores maintained by the Chief Mechanical Engineer in the OHC was transferred to the Controller of Stores Department and the staff working in the sub-stores were also transferred and the stores and the staff were totally maintained and controlled by the controller of stores. It is alleged that in between this period, 14 posts of Khalasis fell vacant in the C.M.E. department due to promotions and they were not filled but abolished totally inspite of the increased work load and due to insufficient Khalasis, the management adopted tactic by engaging contract labour on daily wage basis at Rs. 25 per day. Thus, it is pleaded that the management is adopting unfair labour practice by engaging nearly

60 contract labour daily and avoiding employment of Khalasis on regular basis departmentally and thus victimising the labour society by avoiding filling of the vacant posts.

(3) Written statement is filed by the respondent management. It is admitted that Ore Handling Complex Sub-stores which was under the control of Chief Mechanical Engineer was transferred to the controller of stores of the Port Trust. It is stated that the O.H.C. stores was transferred along with the incumbent of the posts with effect from 1-10-86. It is further stated that all the stores staff of OHC continued to work in OHC even after their transfer to stores department and their working hours remain the same. It is stated that in the process of reorganisation of general stores, 14 posts of Khalasis (shore) were transferred from Mechanical Department to the stores department with effect from 30-1-87 to meet the work requirement of OHC stores and to fill-up the posts from casual labour pool of Engineering Department. There are separate casual labour pools for Mechanical Department and Marine Department and for the rest of the departments there is a central pool in the Engineering Department. It is stated that when the engineering department expressed its inability to supply the required number of casual labour to stores department for regular appointment as Khalasis (shore), the Mechanical Department supplied the casual labour (khalasis) to stores department with effect from 4-5-89 as an alternative measure to meet the urgent need to engage the staff on work and side over the situation. It is stated that none of the Khalasis of OHC stores has been physically transferred to stores department. It is stated further that as the casual labour of Mechanical Department were appointed against the regular vacancies of Khalasis (shores) in stores department, there will not be any change in service conditions. Thus, it is pleaded that the action taken by the management in transferring and appointing 14 casual labour (khalasis) of Mechanical Department as Khalasis (shore) in stores department is in the interest of work. It is stated that the sub-stores is under the Chief Mechanical Engineer even though the same has been transferred to the controller of stores department. It is again stated that the staff working in the sub-stores were also transferred in 1986 along with the sub-stores and the stores staff are totally maintained and controlled under the control of stores. Regarding the 14 posts, it is stated that 14 surplus Khalasis of other wings of OHC who are engaged on requirements of stores work were surrendered to enable the controller of stores to create the number of Khalasis posts in that department under controller of stores. Ultimately, it is pleaded that the Khalasis are engaged as per the work requirement and the existing Khalasis are adequate to the work requirement and it is stated that casual labour (Khalasis) are being engaged as per the work requirement in OHC, and the Labour are engaged on daily wages by the contractor to perform different nature of work i.e. clearing of much and fines of OHC.

(4) On behalf of the workmen the Organising Secretary, Port and Dock Employees Association by name Sri K. Paradeshi Naidu is examined as WW1. On behalf of the management MW1 and MW2 are examined. MW1 is the Sr. Asst. in the office of the Chief Materials Manager which was earlier called controller of Stores Department. MW2 is the Senior Asst. in the Chief Mechanical Engineer's Department. No documents are marked by either side.

(5) The point for consideration is : Whether the action of the management is justified in transferring the Khalasis appointed under Mechanical Department ?

(6) The brief facts which gave raise to this dispute between the Visakhapatnam Port Trust and its workmen are, as I understand from a reading of the claim statement filed by the workman and the written statement filed by the management are that the year 1986 the sub-stores of Ore Handling Complex of the Port Trust which was under the control of Chief Mechanical Engineer was merged and transferred to the controller of stores department and consequently the question of transferring the staff for coping-up with the additional work in the main stores department, arose. The case of the management is that none of the Khalasis of OHC stores has been physically transferred to stores department

but in the process of reorganisation of general stores 14 posts of Khalasis (shore) were transferred from Mechanical Department to the stores department with effect from 30-1-87 to meet the work requirement of OHC stores and to fill up the posts from the casual labour pool of engineering department. As the engineering department expressed its inability to supply the required number of casual labour (Khalasis) to stores department for regular appointment of Khalasis (shore) the mechanical department supplied the casual labour (Khalasis) to stores department with effect from 4-5-89 as an alternative measure to meet the urgent need. The management pleads that as the casual labour (Khalasis) of Mechanical Department were appointed against the regular vacancies of Khalasis (shore) in stores department, there will not be any change in service conditions and its action in transferring and appointing 14 casual labour (Khalasis) of Mechanical Department as Khalasis (shore) in stores department is justified in the interest of work. The management pleads that 14 surplus Khalasis of other wings of OHC who are controller of stores to create this number of Khalasi posts in that department since the OHC stores was merged in stores department and administration has created 14 posts of Khalasis in stores department accordingly. As against this case of the management, the workman pleaded that 14 posts of Khalasis fell vacant on account of promotion etc. under the control of Chief Mechanical Engineer of OHC but they were not filled-up and on the other hand the management has abolished these 14 posts totally, even though the work load doubled and instead it is engaging casual labour in order to deprive the labour and their rights for regular employment and the consequent benefits and thus indulging in unfair labour practice.

(7) Admittedly, the sub-stores of OHC of the Port Trust is transferred to the main stores department. Naturally, this action of the management reduced the work load to the extent of the sub-stores OHC which is under the control of Chief Mechanical Engineer and proportionately increased the work load in the main stores department under the control of controller of stores who is now named as Chief Materials Manager. It is stated in the claim statement that daily the Khalasis in the OHC were allocated various works as per the requirements and similarly the sub-stores was also allocated daily Khalasis to work therein as per the requirement and all these Khalasis were appointed by the Chief Mechanical Engineer. Thus, the number of Khalasis were not separate for the sub-stores but they were allocated from the general pool of Khalasis under the control of Chief Mechanical Engineer. WW1 admits in his cross-examination that the sub-stores of OHC which was under the control of Chief Mechanical Engineer of the port was transferred to the Controller of Stores with effect from 1-10-86 and about the mode of the staff working in the sub-stores before the merger, he states that Khalasis from the OHC were utilised in the sub-stores some times 6 to 10 and subject to a maximum of 14. In the written statement it is stated that no posts of Khalasis were sanctioned exclusively for OHC stores. WW1 admits in his cross-examination that he does not know how many persons are actually working in the sub-stores after it was transferred to the controller of the said section. He further, admits that the 14 Khalasis were working in the OHC were pooled and they were directed to work in the sub-stores when it was under the control of Chief Mechanical Engineer. This evidence shows that no particular number of Khalasis were allotted to the sub-stores separately but the Khalasis in varying numbers subject to maximum of 14 were utilised from the general pool of Khalasis working under the Chief Mechanical Engineer as per the requirement, to work in the sub-stores. In this back ground, the plea of the management that it surrendered 14 posts of Khalasis which were surplus with the Chief Mechanical Engineer in order to create 14 Khalasi posts in the controller of stores department, appears reasonable and justified. In other words the management transferred 14 posts of Khalasis from the Chief Mechanical Engineer to the Controller of Stores consequent on the transfer of OHC sub-stores to the controller of stores. Both MW1 and MW2 testify this transfer. MW2 clearly states that 14 posts of Khalasis (shore) were surrendered from OHC Mechanical and TXR sections. Steps were taken to create 14 posts of Khalasi shores in the controller of stores department to meet the requirements in that department. MW1 states in his cross-examination that he has no idea whether the 14 Khalasis were transferred from OHC sub-stores to Chief

Material Manager's office. But he asserts subsequent to the merger of OHC sub-stores to Chief Material Manager's office, the Chief Material Manager took 14 other Khalasis from the Khalasis pool. MW2 admits in his cross examination that the controller of stores appointed 14 Khalasis for these 14 posts taking them from the casual labour pool of Chief Engineer Department. Thus, it is evident that these 14 posts of Khalasis are now filled-up regularly by employing the casual labour on a regular basis, even though they were not filled-up as and when the vacancies arose. Thus, as the situation goes now the management has not kept any permanent and regular posts of Khalasis vacant in order to deprive employment to the workmen.

(8) The evidence on record further shows that there is no prejudice caused to the Khalasis working in these 14 posts which are transferred from the pool of Chief Mechanical Engineer to the Controller of Stores Department. WW1 himself admits in his cross-examination that the workers working in the OHC sub-stores are still working in the same complex even after their transfer to the controller of stores department and their working hours are not changed. He further, admits that there is no change in the nature of work of the Khalasis inspite of the transfer.

(9) It is contended by the representative of the workmen that the management has to retain 14 posts of Khalasis under the control of Chief Mechanical Engineer where they fell vacant and fill them up. He contended that the work load has considerably increased in the OHC and inspite of that the management failed to fill-up these posts and illegally abolished them. It is brought out in the cross-examination of MW2 that work in Iron Ore Handling Complex increased subsequently. If the sub-stores of OHC was not transferred from the Chief Mechanical Engineer, the claim of the workmen for filling of these vacant posts would have been strong and undisputable. In the absence of transfer of the sub-stores, the management could not have pleaded, in view of the increase of work in Ore Handling Complex that the 14 posts of Khalasis became surplus. But, in view of the transfer of the sub-stores, it is obvious that the work load with the Chief Mechanical Engineer got reduced and the management is justified in surrendering the posts of 14 Khalasis to the controller of stores department as stated by MW2, in order to cope-up with the work there. There is no evidence to show that after reduction of work to the extent of the sub-stores, the remaining work with the Chief Mechanical Engineer is so much as to require 14 more Khalasis on a regular basis. If there is still a requirement for more Khalasis on a regular basis in the department of Chief Mechanical Engineer, it is a different question all together. Though it is stated by WW1 that contractor assistance is taken by the management to supply daily wage workers to do the 14 workers work load, no record is called for by the workmen to establish that the management is engaging either contract labour or casual labour on daily wage basis continuously without resorting to fill-up or creating permanent posts of Khalasis to cope-up with the increased work. On the other hand, he admits in his cross examination that the casual labour, Khalasis will be engaged in OHC whenever there is work. Thus, it is evident that the management is engaging casual labour, Khalasis whenever there is work. MW2 also states in his cross-examination that for unexpected work which is temporary the management takes casual labour from casual labour pool. Thus, it is evident that the management is engaging the casual labour only whenever there is unexpected excess work of a temporary nature and not resorting to any unfair labour practice and it has transferred the Khalasis from Mechanical Department as it was necessitated consequent to the transfer of sub-stores.

(10) In view of the evidence on record and the above discussion, I come to the conclusion that the management of Visakhapatnam Port Trust is justified in transferring the Khalasis from the Mechanical Department to the Controller of Stores Department. The point is accordingly answered in favour of the management and against the workmen. In the result, I answer the reference in the following terms :

"The action of the management of Visakhapatnam Port

Trust is justifie in transferring the Khalasis from Mechanical Department to the controller of Stores Department. The employees are not entitled to any relief. Accordingly Nil award is passed."

Dictated to steno transcribed by her given under my hand and seal of the court this the 30th day of August, 1995.

SMT. G. JAISHREE, Chairman & Presiding Officer

APPENDIX OF EVIDENCE IN I.T.D. NO. 5/92(C)

WITNESSES EXAMINED

FOR WORKMAN : FOR MANAGEMENT
WW1 : K. K. Paradesi Naidu. MW1 : A. Venugopula Rao.
MW2 : Ch. Rama Rao.

DOCUMENTS MARKED

For Workman : Nil. For Management : Nil.

नई दिल्ली, 6 अक्टूबर, 1995

का.प्र. 2910.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारत कोकिंग कोल लि., कोयला भवन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-95 को प्राप्त हुआ था।

[संख्या (1) एल-20012/263/92-आई.प्रार. (कोल-I)
(2) एल-20012/264/92-आई.प्रार. (कोल-I)]
ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 6th October, 1995

S.O. 2910.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bharat Coking Coal Ltd., Koyala Bhawan and their workmen, which was received by the Central Government on 5-10-95.

[No. (1) L-20012/263/92-IR(Coal-I)
(2) L-20012/264/92-IR(Coal-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri D. K. Nayak, Presiding Officer.

In the matter of Industrial disputes under Section 10(1)(d) of the I. D. Act, 1947

REFERENCE NO. 148 OF 1993

PARTIES :

Employers in relation to the management of M/s. Bharat Coking Coal Ltd., Koyala Bhawan and their workmen.

(Ministry Order No. L-20012(263)/92-I.R. (Coal-I) dated, the 22nd September, 1993).

REFERENCE NO. 150 OF 1993

PARTIES :

Employers in relation to the management of M/s. Bharat Coking Coal Ltd., Koyala Bhawan and their workmen.

(Ministry's Order No. L-20012(264)/92-I.R. (Coal-I dated, the 24th September, 1993).

APPEARANCES :

On behalf of the workmen : Sri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

On behalf of the employers : Sri H. Nath, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dated, Dhanbad, the 22nd September, 1995

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order referred to above.

SCHEDULE IN REFERENCE NO. 148 OF 1993

"Whether the demand of the union for reinstatement of the following workmen with full back wages by the management of BCCL, Koyla Nagar, Dhanbad is justified ? If so, to what relief the workmen are entitled and from which date ?"

Name of workmen

1. Laliteswar Prasad Singh.
2. Sidhnath Singh
3. Suman Kumar Prasad.
4. Rajendar Singh.
5. Sohan Singh.
6. Parveen Kumar Sinha.
7. Ramanand Pd. Singh and
8. Saukat Khan.

SCHEDULE IN REFERENCE NO. 150 OF 1993

"Whether the demand of the union for reinstatement of following workmen with full back wages by the management of BCCL, Koyala Nagar, Dhanbad is justified ? If so, to what relief the workmen are entitled and from which date ?"

Name of workmen

1. Ramesh Prasad Singh
2. Ram Adhar Bharti
3. Mahender Singh
4. Bijendra Kumar Singh
5. Rajnarayan Singh
6. Anil Kumar Kaushik
7. Ashok Kumar Rajak
8. Ram Murti Maharaj
9. Suresh Dubey
10. Mahender Singh
11. Ram Bachan, and
12. Sudersau Sharma.

2. In both the cases the workmen as well as the management have filed their respective W.S. and rejoinder in support of their cases. At the very outset it may be mentioned that though two references have been made by the Govt. of India, Ministry of Labour but practically in essence those two references are based on common question of law and facts. Under that circumstances both the cases are taken up together for the purpose of evidence and Award. An order was also passed by the order No. 17 dt. 23-2-95 on an application filed by the concerned workmen and on consent of the management.

3. Let me state the facts stated in the W.S. filed by the workmen in Case No. 148 of 1993 in a nutshell.

4. It is stated that the concerned workmen Laliteswar Prasad Singh and others of this reference had been working in BCCL having unblemished record of service and their appointment was made initially by the Chief of Security of M/s. BCCL who used to hold joint post of Chief of Security and Chief of Industrial Force at the relevant time. In spite of appointment the concerned workmen as alleged followers by M/s. BCCL they used to get a sum of Rs. 10/- per diem in violation of the provision of NCWA and other statutes in this regard.

5. Practically the mode of appointment was in the manner of camouflage by the management to avoid the permanent nature of job which intentional and motivated. But for all purposes the said workmen were the employees of M/s. BCCL (hereinafter referred to as management) though they used get less wages in comparison to the wages recommended by the Wage Board Recommendation and mentioned in NCWAs and other remuneration was even below the wages of employees of Category I of the management.

6. However, the higher authorities and the immediate superiors of the concerned workmen forwarded notesheets with recommendation for regularisation of the concerned workmen in Category I Mazdoor but ultimately no effect was given thereto.

7. Many junior workmen who were also appointed by the same Chief of Security of the management as alleged followers were regularised as Category I Mazdoor by the same management on the basis of the recommendation and notesheets initiated by the superiors. In spite of such initiation these workmen were deprived of from their demand of regularisation and wages atleast like the Mazdoors of Category I and ultimately they were stopped from work without complying with the provisions of Section 25F of the I. D. Act. Being aggrieved the concerned workmen challenged the legal and arbitrary termination of their services before the Hon'ble High Court, Calcutta. Though it was admitted and stay order was issued initially and wages of 18 months were given to them by the management but ultimately the said Writ Petition was dismissed for want of jurisdiction. Thereafter another Writ Petition was moved before the Hon'ble Patna High Court, Ranchi bench which was dismissed in limine. As against the said order of dismissal one S.L.P. was moved before the Hon'ble Supreme Court being S.L.P. No. 2405/86 and the Hon'ble Supreme Court disposed off the said S.L.P. Petition by way of remanding the case to the Hon'ble Patna High Court, Ranchi Bench. Of course, after hearing the matter the Hon'ble Court dismissed the petition observing that there is lack of jurisdiction in this matter with a direction to move to the proper forum. In the Hon'ble High Court, Patna, Ranchi Bench as well as in the Hon'ble Supreme Court of India the management took part in the hearing and urged that the concerned workmen are the employees of Central Industrial Security Force (hereinafter referred to as CISF) whereas CISF appearing in Hon'ble High Court and in Supreme Court filed an affidavit by stating therein in specific manners that the concerned workmen were the employees of the present management.

8. In view of the verdict of the Hon'ble Patna High Court, Ranchi Bench as stated earlier one set of workmen raised an industrial dispute before the ALC(C), Dhanbad which was ultimately referred to the Central Govt. Industrial Tribunal No. 1, Dhanbad bearing Ref. No. 120/91 and upon the self same fact and law the learned Presiding Officer of that Tribunal No. 1, Dhanbad was pleased to pass an Award in favour of the workmen concerned therein with a direction to reinstate them with full back wages as Cat. I Mazdoor, which was challenged before the Hon'ble Patna High Court, Ranchi Bench and the Hon'ble Patna High Court, Ranchi bench directed the management to pay half of the awarded back wages to the concerned workmen and to pay current monthly wages till the disposal of the Writ petition. In view of the aforesaid fact the present workmen have prayed for reinstatement with full back wages holding the termination to be illegal and unjustified.

9. In Ref. No. 150 of 1993 practically the same facts have been stated. So I refrain from repeating the said facts though it relates to the separate group of concerned workmen but their W.S. is based on the facts as stated in the W.S. filed by another group of workmen in Ref. No. 148/93 and they

also have made the same prayer as prayed for by the workmen in Ref. No. 148/93 challenging the order of termination in the same manner as they have stated in their W. S. in another reference case and also stating their appointment too in the same manner as other group of workmen stated in the earlier in Reference Case No. 148/93.

10. Similarly two sets of W.S.-cum-rejoinders have been filed on behalf of the employers. Practically in the same line relying upon the same facts and more or less one W.S.-cum-rejoinder is the verbatim reproduction of the other one. So to avoid repetition the facts stated by the management in both the cases in their W.S.-cum-rejoinder are stated in short for the present purpose.

11. The case of the management in both the Ref. cases is that the present dispute is not covered within the ambit of I.D. Act, 1947. It is stated further that by letter dt. 25-10-91 the same dispute was raised by the Secretary, Bihar Colliery Kamgar Union in respect of the same set of workers though same facts were not stated therein which have been added in the present case. On the basis of the said letter notice was received from the ALC(C), Dhanbad dt. 17-12-1991 and all the facts were stated by the officer concerned by the letter dt. 2-3-1992 with a prayer for closing the case.

12. Further case of the management is that they made a requisition of the services of the Home Guards from Bihar Government temporarily till the posting of CISF which was constituted by the Govt. of India under CISF Act, 1968 for maintaining peace and security in the public sector undertakings. In BCCL C.I.S.F. took charge of security since 1979 and the Home Guards obtained from the Bihar Govt. were returned. Before coming C.I.S.F. a number of persons were employed by the Commandant as Home Guards followers to discharge the duties of Cook, Washerman, Barber, Shoe-Shineman etc. and their services extinguished as and when CISF in 1979 was posted as per rules and thereafter CISF made fresh appointment to some of the persons who worked as Home Guard Followers as per their requirement.

13. M/s. BCCL is a Government company as defined under Section 617 of the Company's Act, 1956 and thereby the Home Guards followers were never the employees of the present management and they were the men of the Government and their salary etc. were paid by the Govt. of Bihar and thereby there was no relationship of employer and employee between Home Guards Followers and M/s. BCCL and they were appointed having their contract with the State of Bihar and they used to work as Security force in the colliery as per contract between the management and the Bihar Government having no connection whatsoever with the Home Guard Followers directly with the management. Further case of the management is that an agreement was reached between the DIG, C.I.S.F. and the Director Personnel and the Director, Finance to the effect that the management would have no responsibility to appoint the followers in BCCL and by virtue of that agreement this CISF authorities used to transfer the followers from one place to another having their power of termination of their services according to their convenience. Further case in the W.S. of the management is that Shri Laliteswar Prasad Singh and 8 others served a letter through the R.C.M.S. Union dt. 7-2-1986 raising an industrial dispute before the ALC(C) and in the said letter some names appear to be different on comparison of the present set of persons and self same dispute is raised by another sponsoring union at present after 5-1/2 years without mentioning the earlier one. In that case if it is allowed that will encourage the union to raise the same dispute one and again which is against law and several case laws have been cited and mentioned in the W.S. in paras 16, 17 and 18 enunciating the principles of different Hon'ble High Courts and also Hon'ble Supreme Court about the procedures for acceptance of the demand of the union and the principles laid down involtd under the present question of facts and laws and ultimately they have prayed for answering the reference against the workmen holding the action of the management to be justified.

14. In the rejoinder the facts stated in different paras of the W.S. have been denied and it is stated further if the demand of the workmen be accepted that will go against the Employment Exchange Act and that will deprive the reservation made for the Scheduled Castes and Scheduled Tribes which have been repeatedly observed by the Hon'ble High Courts and Supreme Court leading to violation of Articles 14, 16 of the Constitution of India.

15. Similar W.S. have been filed in Ref. No. 150/93.

16. In both the cases for the workmen one witness namely Mahendra Singh as WW-1 and A. K. Sinha, MW-1 for the management have been examined and besides that same sets of documents have been filed in both the cases which have been marked as documentary evidence to be discussed later on.

17. Therefore, at the present moment in view of the W.S. and evidence on record I am to dispose of the reference involved in the present case and to pass Award accordingly.

18. For the workmen one Mahendra Singh son of Brahamdeo Singh of Jealgora had been examined for all the workmen who are involved in Ref. Case No. 148/93 and 150/93. According to him he along with other concerned workmen from time to time or at a time in some cases were appointed by the Chief of Security Officer, BCCL and some of them were in the employment even before that and their work was supervised by the officer of BCCL. He has deposed further that they used to get Rs. 12 only per day for working in a continuous manner for the job which was permanent in nature. They were not allowed to work since June, 1984 and he has deposed further that they worked for more than 240 days in 12 calendar months before their stoppage. From his statement it transpires that they were given the wages much below the wages of minimum of Cat. I mazdoor under BCCL. He had deposed further about the case as stated in their W.S. and as admitted by both the parties before the Hon'ble High Court, Calcutta and the order for payment of wages for 18 months by the management of BCCL though the case was dismissed ultimately. He has also deposed about the case of Hon'ble Patna High Court and Hon'ble Supreme Court over this issue. I find from his statement further that some of the workmen working in the same capacity were absorbed by M/s. BCCL as permanent employees and some workers associated to them got award in their favour passed by the Presiding Officer, Central Government Industrial Tribunal No. 1, Dhanbad. He had denied in cross-examination that their work was of temporary nature and that their claim is unjustified. It has also been denied that they were employed by the Home Guard department for working as Chhaprasi, Warherman and other jobs.

19. On the side of the management Mr. A. K. Sinha had been examined who had deposed that when the colliery was nationalised from the management side requisition of Home Guards were made from Bihar Government initially and as per requisition of the Bihar Government deputed the Home Guard performing duties of the security under the control of the Commandant of Home Guards. It transpires from his evidence that Home Guards were appointed by the Commandants, Home Guard for their own end for the purpose of watering, harboring, washing clothes etc. He has added further that for such appointment M/s. BCCL had no connection and the expenditure for the posting of the Home Guards were reimbursed and were made from the BCCL through Bihar Government. According to him Central Security Force came in BCCL in 1979 and Home Guards were returned to their parent department and thereafter as per rules recruitment of CISF Camp Followers were made and in such appointment BCCL had no connection whatsoever with the said employees. He had proved Ext. M-7 a photo copy under the signature of Director (P), Director (Finance) and D.I.G./COS. In cross-examination he had deposed that DIG used to hold dual charges of Chief of Security of BCCL and DIG CISF and he has conceded to the fact that the Chief Security of BCCL was the employee of BCCL and he was the disciplinary authority empowering with the power of dismissal of the security staff though he had no power of appointment. However, he has admitted that all the guards including the Night Guard etc. were under the control of Chief of Security BCCL and he had power to transfer them. He has knowledge whether the concerned workmen were appointed by the Chief of Security BCCL or DIG, CISF but he has acceded to the points that many persons being appointed by Commandant Home Guards have been recruited by BCCL though he had not admitted that they were regularised as claimed by the present workmen. He has also admitted that the said persons being appointed by BCCL were placed in Category I. He was suggested that Ext. M-7 is the fabricated document but he has denied so. However, he has admitted that similar

type of case belonging to Case No. 120/90 was pending in Tribunal No. 1, Dhanbad where he deposed and an award was passed in the said case in favour of the workmen.

20. Before entering into the details of the both oral and documentary evidence I like to mention certain points which practically appear to be admitted in order to shorten the matter.

21. There is no dispute that before nationalisation, collieries made requisition of home guards from Bihar Government for security purposes and as per evidence of Mr. Sinha, MW-1 their salaries were paid by the BCCL through Bihar Government. It is also not disputed that the Central Industrial Security Forces (hereinafter referred to as CISF) took birth on an enactment of Parliament under the Nomenclature Central Industrial Security Force Act, 1968 to promote the protection and security of the industries undertaken and owned by the Central Government. It is also clear from the Act itself that the administrative structure of the said CISF is more or less identical for all purposes with the Police Force both of Central Government and State Government. It is not disputed that CISF came into existence in the year 1972 in M/s. BCCL Ltd., Jharia. After careful scrutiny I do not find any denial of the case of the sponsoring union that besides CISF others security agencies like Ex Bihar Home Guards were returned to the parent department and fresh appointment of the Night Guards were made in BCCL who started performing security duty therein. The dispute arises from this point in the manner as stated hereinafter. It is the case of the sponsoring union that the said security staffs were employed by the Chief of Security of M/s. B.C.C.L., Jharia but the management has disputed and contending that the concerned workmen have claimed to have been appointed by the DIG/Chief of Security as followers and thereby they are the staff of the DIG not the staff under the control of the Chief of Security who is attached to BCCL though the self same officer holds dual power of DIG and Chief of Security, BCCL.

22. Besides the oral evidence to solve this problem let us go through the documentary evidence filed by the parties in support of their respective cases.

23. Ext. W-1 is the letter under the signature of Additional Chief Personnel Manager of BCCL addressed to D. P. S. Chouhan, I.P.S., D.I.G./Chief of Security, BCCL, Jealgora regarding appointment of followers as Cat. I Mazdoor against requirement in the collieries of BCCL. In the said letter dated 25/28-2-1983 referring their earlier letter a request was made to furnish the require information at the earliest. Ext. W-2 is also a letter dated 1-2-84 under the signature of Sr. Administrative Officer addressed to Shri P. P. Singh, Assistant Commandant, CISF furnishing certificates required by him as regards security followers working in different sections. Ext. W-3 is a letter of D. P. S. Chouhan, DIG/Chief of Security to Director (P) Kovala Bhawan, Kovala Nagar and others dated 18/19-8-82 stating that 94 followers attached of Rs. 12 only which is much less than the wages of casual types of duties along with the security personnels get a sum of Rs. 12 only which is much less than the wages of casual worker of Cat. I and making a request to consider the said 94 persons as Cat. I workers and to pass their wages accordingly in order to remove their long standing grievances. Ext. W-4 is the letter of Personnel Manager (NEE) dated 1-8-83 addressed to the Secretary to DIG Security, Headquarters, Jealgora on the subject of appointment of followers as Cat. I Mazdoor against requirement in the collieries of BCCL. In the said letter a request was made to send the list which were already sent by D.I.G. on 1-2-83 for submission of the same in order to peruse to meet the demand on the above cited case. Ext. W-5 is a note of DIG/Chief of Security dated 10-9-83 stating therein that 130 followers of security department attached to Security Headquarters and various areas of BCCL are getting only Rs. 12 per day though some of them are discharging the duty of security since 1972 during the time of Bihar Home Guard Battalion and those followers are even attached with CISF from 1980 onwards. Accordingly a complete list of the followers along with list containing educational qualifications, place of posting and Date of joining were sent therewith for regularisation in BCCL as Cat. I workers. I have carefully considered the said list which covers the workmen mentioned in both the references cases 148/93 and 150/93 in Reference Number 140/93, Serial Numbers 123, 122, 68, 62 or 129, 80, 112, 100 and 101 and in Reference Nos. 150/93 Sl. Nos. 50, 46, 67, 56

or 73, 55, 34, 37, 85, 60, 71, 108, 72 respectively respectively. Ext. W-7 is a letter of Director of Personnel BCCL to DIG/Chief of Security with an information with some anomaly arises on verification of the Personnel Department which stands as bar for regularisation of the said persons as Cat. I Mazdoors. However, 61 candidates were agreed to be considered for departmental selection and proforma enclosed for the same to meet the prescribed procedures, Ext. W-8 is a letter of Addl. Chief Personnel Manager (IR) W. BCCL dt. 15-3-83 over the appointment of the followers as Cat. I Mazdoor with an indication of regularisation of 43 persons. Ext. W-9 is a minute of discussion with the Director (P) where the Director (P) agreed to absorb the followers of the Security department in BCCL in Cat. I workers in due course with further note that a decision had already been taken by the management for further recruitment of the followers after 15-3-83. The said Ext. also discloses that 135 Security followers would be absorbed as Cat. workers in BCCL as 15 security followers had already been absorbed in January, 1983 who were working in the vigilance department as Sr/junior watchman. This Ext. discloses that a copy of the same was given to the Director (P) Koyala Bhawan. Ext. W-10 is the same paper which was exhibited as Ext. W-5. Ext. W-11 is the office order of BCCL where 15 followers of security department were placed in Cat. I as General Mazdoor Vigilance in the scale, as stated therein. In Ext. W-12 DIG stated to the RLC (C) that the persons mentioned therein are the followers appointed by the C.I.S.F. but they were paid by BCCL till date their services were discontinued. The affidavit exhibited which was sworn in before the Hon'ble Supreme Court and Hon'ble High Court reflects that the DIG contends the followers to be the staff of BCCL whereas BCCL denies so. Those are exhibits in both the cases.

24. From the side of the management several documents have been exhibited out of which Ext. M-1 is identical to Ext. W-2, Ext. M-2 is identical to Ext. W-11, Ext. M-3 is identical to Ext. W-3 and also there are Exts. M-4 to M-14. Ext. M-4 is an affidavit sworn in before the Hon'ble Supreme Court of India in S.L.P. petition in the form of counter affidavit by K. D. Nayar, IPS, Dy. Inspector General, Central Industrial Security Force, admitting the case of the workmen. Ext. M-5 is the letter by DIG/Chief of Security to V. Manohar, Director (P) Koyala Bhawan dt. 12-9-83 as regards attendance of the followers employed in the security department. Ext. M-6 is the letter to the Addl. C.P.M., Karmik Bhawan, Saridhella dt. 14-6-1983 relating to the discussions regarding regularisation of 135 followers of security department stating that appointment of those 135 followers were made by Commandant after following the procedure as per CISF Rules and no irregularity in the appointment took place. Ext. M-7 is the minutes of discussion amongst Director (Finance), Director (Personnel) and D.I.G./C.O.S. dt. 16-3-83 where it was decided that thereafter DIG/COS assured that no fresh induction will take place in the watch and ward or as followers now onwards under his own powers. It was further decided in case of need on account of absorption of some of the existing followers in CISF, he would put up a separate proposal indicating the number of followers required as replacement for sanction of the management. However, it does not indicate about the said 135 followers amongst whom the present workmen are included. Ext. M-8 is dt. 14-6-83 written by DIG/Chief Security which has already been exhibited as Ext. M-6, Ext. M-9 is the letter of the sponsoring union to the ALC(C) claiming the regularisation of the concerned workmen in Ref. No. 148/93. Ext. M-10 is the delegation of powers to DIG/Chief of Security dt. 7-4-77. Ext. M-11 is the letter dt. 13-2-80 about transfer of post to CISF unit BCCL Jharia. Ext. M-12 is a letter about the recruitment in CISF of Home Guards deployed in BCCL Jharia where an order was given for appointment to the Security Guards against post released numbering 977 Home Guards personnel in question. Ext. M-13 is the letter to the D.I.G. for recruitment of Home Guards Wireless Operator. Ext. M-14 is the letter to the I.G. CISF by the Chairman/Managing Director, Koyala Bhawan for absorption of Home Guards in BCCL Units.

25. On careful scrutiny of the oral and documentary evidence it appears that after release of home Guards

borrowed from Bihar Government the charge of the security of the collieries including the present management BCCL came into the hands of C.I.S.F. and the concerned workmen are the followers of C.I.S.F. who were recruited from time to time as per rules which have been exhibited by the management and there is no dispute in this regard from any corner. The only dispute which invites my decision whether they are the workmen or staff under C.I.S.F. or they would be considered to be the workmen of BCCL. It is the case of the sponsoring union that since long they were performing the security job under the management and under Director control of M/s. BCCL and their wages were also given by the BCCL.

26. It is an admitted position that DIG of CISF was holding the charge of Chief of Security of M/s. BCCL and thereby he used to exercise dual powers and that fact is corroborated both from the oral evidence of the management and the workmen as well as from the documentary evidence exhibited by both the sides. It is also in evidence that they used to discharge the duties as Cooks, Washerman, Barbers etc. under the control of DIG/CISF/Chief of Security of the present management. It is also admitted that certain power were delegated to the DIG as Chief Security regarding appointment and dismissal of Guards, Night Guards, Watchman, Chhaprasi an dalso to make order of transfer, posting and to take disciplinary action if required.

27. There is no dispute that the concerned workmen moved before the Hon'ble Calcutta High Court and then to Hon'ble Patna High Court and went upto Hon'ble Supreme Court but their applications were dismissed with the observation that they are to come through proper forum i.e. before the Industrial Tribunal for their proper redress. But one fact is divulged in the affidavit sworn in by K. D. Nayar, DIG/CISF as well as Chief of Security of M/s. BCCL Jharia that the night guards, watchman Bihar Home Guards are presently performing security duty under the direct charge of Chief of Security of M/s. BCCL, Jharia which is corroborated by the evidence of the management also as MWI who admitted that Chief of Security of M/s. BCCL and DIG are the self same person having power of appointment, dismissal, transfer, disciplinary action in terms of power delegated to him. From the exhibits already referred to above it is clear enough that DIG/Chief of Security, BCCL drew attention of the management for absorption and regularisation of 135 followers in Cat. I appreciating their demand on this point. Ext. W-5 and Ext. W-3 clearly support it and Ext. W-4 also reflects that the recommendation of the Chief of Security of BCCL was found to be justified and attempt was made from the side of the management to regularise the said followers in BCCL as recommended. Ext. W-7 is the document which discloses that some persons working as followers were proposed to be regularised and for such proforma was sent for following of the matter. Ext. W-8 is a document written by the Addl. Chief Personnel Manager (IR) BCCL to another Addl. Chief Personnel Manager (Est) of BCCL for finalisation of appointment of the followers as Cat. I Mazdoor against the requirement of collieries in BCCL. Ext. W-9 clearly reflects the decision of recruitment of the followers and their absorption in Cat. I in BCCL on discussion with the Director (Personnel). Ext. W-11 goes to show that BCCL regularised some of the followers in Cat. I as proposed.

28. Therefore the said documents along with the evidence of the workmen are sufficient enough to form an opinion that Chief of Security tried to impress upon the management that the concerned workmen were performing the duties of the security are to be regularised and the Addl. Chief Personnel Manager (IRW) satisfied with the demand of the workmen and the contention of the Chief of Security in this regard and pursuant to that he made a request to the Addl. Chief Personnel Manager (Est) to finalise the case of the concerned workman as Cat. I Mazdoor at an earliest opportunity so that they might be posted in Moondih against requirement. I think that this being the facts and circumstances appearing from the oral and documentary evidence on record I have no hesitation to be satisfied that the case of the concerned workmen for the regularisation of the Cat. I Mazdoor in M/s. BCCL is fortified with the documents and the circumstances revealed therefrom are sufficient enough to support their cause.

29. But without doing so by dispensing with the services of the concerned workmen with effect from June, 1984 the said act was not supported with materials.

30. Accordingly it is held that they were illegally terminated and their demand for reinstatement is justified in view of the series of documents and series of facts revealed therefrom.

31. Incidentally it is observed that as the concerned workmen have been considered to be the workmen under BCCL which is Central Govt. the present reference is maintainable under I.D. Act, 1947 and they are well equipped as per law to raise this dispute. In this context the decision of the Hon'ble Supreme Court reported in 1963 (II) LLJ 436 (J. K. Cotton Spinning and Weaving Mills Company Ltd. and Labour Appellate Tribunal of India) it has been observed that a person who is attached to the manufacture or production of an industry including cokes and other derivatives they are considered to be the workmen and his being the decision it is futile to say that their claim cannot be considered within the ambit of I.D. Act., 1947.

32. Another question which was raised by the management that after a long lapse of 5-1/2 years they made the reference. But I find from the records and from the series of correspondence over this claim that from long past they are fighting for their claim and thereby it leads to hold me that there was continuous attempt from the side of the highest authority even for the concerned workmen to get relief amicably and when it failed then they knockwed the door of the ALC(C) or RLC(C) and then the present reference arose. So the delay if any is for the cogent reasons and that can be well explained. In this premises a case law reported in Patna High Court Ranchi Bench his Lordship Hon'ble Mr. Justice S. B. Sinha opined that staleness in raising an industrial dispute itself is not sufficient ground to hold the reference to be not maintainable and it was further observed that facts and circumstances are to be considered to stop the affected workmen to exercise their rights in raising an industrial dispute on the ground of staleness if it is properly explained.

33. So with reference to the said case law along with other decisions I hold that this reference cannot be found to be bad in law on the ground of staleness.

34. Already I have referred that all the concerned workmen in both the reference cases are mentioned in the list prepared as enclosures of Ext. W-5 and exhibited as Ext. W-6 so their case was made out from very inception and thereby all they are entitled to get the relief of reinstatement in Cat. I as claimed with full back wages.

35. In the result, it is held that the demand of the union/workmen for reinstatement of the concerned workmen in both the reference cases with the full back wages by the management of BCCL, Koyala Nagar, Dhanbad is justified and the references are disposed off in favour of the workmen, holding that the concerned workmen are entitled to be reinstated in service in Cat. I with payment of full back wages from the date of their stoppage.

36. In this premises some clarifications and directions are needed to the workmen as in Ref. No. 148/93 I find the name of one Rajender Singh but in the list marked as Ext. W-6 goes to show that out of 130 persons there are more than one Rajender Singh and similarly in Ref. Case No. 150/93 the name of one Bijendra Kumar Singh appears without having any other reference but in the said list marked Ext. W-6 there are more than Bijendra Kumar Singh. Also the name of Mahender Singh appears in Ref. No. 150/93 who has also deposited in this case but it is not written whether he is No. 1 or No. 2 as I find the name of Mahender Singh in two places in the said list. Therefore, the sponsoring union is to furnish the particulars to the management who are actual persons within this reference out of the persons mentioned in Ext. W-6 for implementation of the Award so far those persons are concerned within one month from the date of publication of the Award. The management is directed to give effect of the Award within one month from the date of publication of this Award except those three workmen and the award would be implemented so far those persons are concerned within one

month from the date of furnishing the particulars by the sponsoring union as directed.

This award governs both Ref. 148/93 and Ref. No. 150/93.

This is my Award.

D. K. NAYAK, Presiding Officer

नई दिल्ली, 6 अक्टूबर, 1995

का.आ. 2911.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ऑयल कॉर्पोरेशन बराउनी ऑयल रिफाइनरी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-95 को प्राप्त हुआ था।

[संख्या एल- 30012/4/90-आई आर (विविध)/(कोल-I)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 6th October, 1995

S.O. 2911.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Tribunal, (No. 2) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Oil Corporation Barauni Oil Refinery and their workmen, which was received by the Central Government on 5-10-95.

[No. L-30012/4/90-IR (Misc.)/(Coal-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT

DHANBAD

PRESENT:

Shri D. K. Nayak, Presiding Officer.

In the matter of an I.D. under Section 10(1)d
of the I.D. Act, 1947

Reference No. 30 of 1992

PARTIES:

Employers in relation to the management of
Indian Oil Corporation Barauni Oil Re-
finery and their workmen.

APPEARANCES:

On behalf of the workmen: Shri S. C. Gaur,
Advocate.

On behalf of the employers: Shri K. N. Gupta, Advocate.

STATE: Bihar INDUSTRY : Oil

Dated, Dhanbad, the 25th Sept. 1995

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-30012/4/90-IR(Misc.) dated, the 4th November, 1992.

SCHEDULE

"Whether the action of the Management of IOC Barauni Oil Refinery, Barauni in terminating the services of Shri Rabindra Nath Mishra, Technician Gr. 'B' w.e.f. 13-8-87 is legal and justified? If not, to what relief the workman is entitled?"

2. For answering the reference made by the Ministry of Labour details of which have been stated both the management and the workmen were directed to file their W.S. and rejoinder in support of their case.

3. Accordingly the concerned workman (Rabindra Nath Mishra (hereinafter referred to as workman) filed W.S. stating inter alia that initially he was appointed as an Assistant Wireman on daily wages of Rs. 2,25 P. in Indian Refineries Ltd. of Indian Oil Corporation Ltd. (hereinafter referred to as Corporation) on 9-1-60 but his payment was made on monthly basis. After joining in the said post on temporary basis for a period of one year he was put into a scale of pay of Rs. 35—70 along with other allowance by an office order issued on 25-9-60. Thereafter on completion of his probationary period he was appointed as a Fitter Electrical on 20-8-64 and his performance was found to be satisfactory and he was put into the scale of Rs. 75—145 after proper interview and after joining thereafter on 21-8-64 he was posted as Fitter Electrical in the Power and Utilities department of the Corporation. Being satisfied with his job on expiry of the probationary period he was confirmed in the service of a workman as Technical Grade-III (Electrical) with effect from 17-1-1971 and he was thereby made permanent employee against a permanent post in the corporation. From time to time he was granted with all benefits of revision of pay from 1970 onwards and he got promotion to Grade-II (Electrical) in the year 1985. Unfortunately on 7-5-85 he faced accident while he was on duty on High Tension line at refinery township Barauni causing skull wound and knees graft therein and he was found hanging in High tension line for quite

a long time and he was removed to the Hospital of the I.O.C. Barauni in an unconscious stage and his treatment continued there upto 21-6-85. Thereafter he was referred to Kurji Holy Family Hospital for his treatment from the hospital where he was and his treatment continued therefor a pretty long time. It is alleged further that the said accident took place as one line was shut down but High Tension line was not shut down and it was alive and that was the fault of the other staff of the management leading to the fault of the management itself. However, his treatment continued and he was removed to Patna in the said hospital as stated earlier where he stayed for 37 days for necessary operation. In the said hospital on 12-7-85 he was advised for staying there atleast for a month for second stage of surgery. Thereafter he was referred to Dr. K.K. Sinha, Neuro Surgeon for specialised treatment at Ranchi by the CMO of the IOC and the said doctor examined the concerned workman on 4-11-86 and after all necessary investigations this workman was advised for rest for two months and to visit Ranchi on 12-1-87 for further investigation. Treatment of this workman continued without any gap and the said doctor (specialist) advised this workman to take rest for four weeks on 24-4-87. In the meantime CMO of the Hospital of the IOC Barauni after examining the concerned workman on 25-5-87 advised for rest till final medical board was held and for such long absence he was even granted disability leave for 44 days from 1-7-87 to 13-8-87 as other leaves were exhausted and pursuant to the direction of the management vide their letter dt. 22-6-87 to appear before the medical board to be held on 25-6-87, this workman appeared where his examination was made in proper manner and ultimately he was declared permanently and totally disabled. This led the corporation to terminate the services of the concerned workman for his permanent and total disablement by order No. PII/61901 dt. 31-8-87 with effect from 13-8-87.

4. The concerned workman challenged the legality and validity of the constitution of the medical board and the manner in which the examination was made leading to the finding of the total disablement resulting his termination in service. He protested to it as it appeared to him that the order of termination is illegal and unjustified and the medical examination was not held properly for want of proper equipment and also for the reason that he had enough chance to get improvement more from time to time and also he challenged the order of termination on and from 13-8-87 though it was passed on 31-8-87. However, his representation was failed. Of course it is admitted that he was paid with compensation in two instalments to the tune of Rs. 84,488 un-

der the Workmen's Compensation Act. It is further stated that on 31-8-88 after consulting Dr. H. N. Verma MSFRCS (Edn) Head of the Department of Surgery and consultant Endoscopist, Patna Medical College Hospital opined that he may be given light job but that was not entertained. So he took the shelter of Pragati Sheel Shramik Parishad who gave a letter to the management on 12-1-88 for his reinstatement and as no result was obtained the matter was referred to the ALC (C) Patna on 11-8-89 and he failed to make any conciliation and the present reference is the out come of that failure. Of course it is admitted that initially the Government refused to make such reference, however being satisfied the matter has been referred to this Tribunal for adjudication. Now it is stated that the termination from 13-8-87 is illegal and against Standing Order of the IOC specially in view of the recommendation of the CMO of IOC Hospital, Barauni on 17-11-88 and Dr. Verma as referred to earlier that he can be posted with light job. It is stated further that the medical board had no right to come such finding nor the corporation had any authority to constitute any medical board as no proper fees of Rs. 10 was paid by the concerned workman and it is further stated that the medical board was not constituted as it is contemplated in the rules and thus he prays for reinstatement with full back wages.

5. The corporation has filed their W.S. stating inter alia that the concerned workman raised an industrial dispute earlier over this issue but was not allowed by the Ministry and that communicated to the concerned workman on 10-7-90. But under some influence of the political leaders he managed to get this reference. It is stated further that the termination of the services of the concerned workman for his continued illness & payment of Rs. 84,400 in two instalments as compensation and wages in lieu of notice in terms of office order dt. 31-8-87 read with office order dt. 7-12-87 was absolutely justified and he is debarred from raising such dispute by the principles of waiver estopped by acceptance of such compensation and for other facts stated below. The factum of the appointment and the promotion of the concerned workman from time to time in different grades are not denied. It is stated further that after facing accident the concerned workman was rendered with all possible help from the side of the corporation by arranging his medical treatment at different places by the different specialists and by granting special leave including other leaves as far as practicable and practically in relaxation of the normal rules but when he was found to be unfit for work for more than 2-1/2 years then the medical board was constituted which communicated to the concerned workman and without raising any objection about such constitution he appeared before

the medical board and got himself medically examined without raising any voice at that moment and the said medical board after his examination found him permanently and totally disabled and submitted a report unanimously that there was no further chance of improvement in the workman. The Chief Medical Officer made reference to the quantum of his medical injury and the medical board's opinion was that his permanent disablement was 100 per cent. Considering the said fact the management thought him to declare permanently and totally disabled and terminated his services with effect from 13-8-87 A.M. on which date he was found to be medically unfit to the extent of 100 per cent and that was communicated to the concerned workman on 31-8-87 and thereafter the management by letter dt. 7-12-87 further offered two months more wages additionally a sum of Rs. 16,375 against compensation.

6. It is stated further that the concerned workman pursuant to the letter of termination dt. 31-7-87 furnished the particulars of his dependants along with other details by his application dt. 15-12-87 for giving employment to one of his dependants and thereafter by filing separate application on 16-12-87 he specifically named of his son Shri Bishwanath Mishra for appointment under the scheme for employment of dependant of an employee of I.O.C. dying or suffering from permanent total disablement while in service.

7. Pursuant to the said prayer the management by letter dt. 21-8-88 asked the said son to appear before the Chief Medical Officer of Refinery for his medical check up and he appeared and he was examined and found to be fit for appointment in the refinery. While giving appointment to the son of Shri Mishra on the compassionate ground a clause was given for vacating the company's quarters by the concerned workman and to report the same within 15 days but it was not applied with nor the concerned workman was interested to get his son employed and ultimately the consideration for appointment of the son of the concerned workman stood cancelled and it was informed by letter dt. 1-1-90. Another prayer was made to the management for changing the word "termination" to "pre-retirement" but it was not accepted as it was not prevalent at the relevant moment. Lastly it is stated that medical board was legally constituted and they examined thoroughly and the management worked as per report of the medical board and the process of which was accepted by the concerned workman without raising any voice at the relevant time.

8. In the rejoinder the concerned workman stated that the manner in which he was terminated and the manner in which the medical board was constituted was not proper and practically

reagitated the matter which he stated in his written statement initially.

9. In the rejoinder of the management practically same things were stated as it was initially stated in their W.S. However some additional points appeared therein. It was stated that it is not advisable to disclose the names of the members in advance to the concerned workman. However it is stated that after termination of the concerned workman the question of granting further leave or observation by way of giving light job does not come in and he was given full opportunity for his recovery and he was afforded with best possible medical aids for his recovery but unfortunately he could not achieve so. Thereby on compassionate ground on his prayer besides the compensation paid employment one of his dependant son was given but ultimately without availing of such opportunity he insisted to get his reinstatement alleged that this order of termination is treated to be 'retrenchment' and also he motivatedly without vacating the quarters took up bitter relations with the corporation resulting loss of service which was given to his dependant son and thereby he is not entitled to get any relief as prayed for.

10. In the instant case both the management and the workman have adduced evidence and examined witnesses besides documentary evidence.

11. For the management two witnesses have been examined. They are Shri S. K. Mishra and Balmukund Mahato. MW-1 S.K. Mishra had deposed about the accident of the concerned workman and the treatment thereafter in different hospitals. He had stated about the constitution of a medical board and it transpires from his evidence that the concerned workman was granted medical leave for about two years. Also I find that he stated to the effect that the concerned workman did not raise any objection on the finding and the opinion of the medical board when he was intimated and he was terminated as per report of the medical board and he was paid with the compensation to the tune of Rs. 84,488 in along with two months more wages against compensation and he accepted the same without any protest. It also transpires from his evidence that the concerned workman applied for getting appointment of his dependant son Biswanath Mishra and he was given appointment after observing paraphernalia in this regard but it was not matured as the concerned workman declined to vacate the quarter which he is to vacate as per rules and ultimately he prayed for his re-employment instead of employment of his dependant son. He was cross-examined about the nature of accident and in cross-examination it is transpired that what he has stated is from record. The same evidence has been given by MW-2 Bal Mukund Mahato. He has denied that there is provision for

deposit of Rs. 10 by the concerned workman for medical examination. However it is denied that any report was obtained after making conspiracy between the medical board and the management. He has been asked about the rules of getting benefits after accident of an employee in the corporation. Similarly the concerned workman had deposed about his accident and treatment as well as recommendation of the doctor of Ranchi for giving him light job. He had deposed that he had been illegally terminated and he is entitled to get the order of reinstatement with full back wages. He has admitted in his cross-examination that Exs. W-8 and W-9 were issued by the private doctors and that was after the termination order. He has admitted that he appeared before the medical board and he had named doctor such as Dr. N. Ahmed, Dr. B. N. Mishra and Dr. B. Choudhury. He has tried to show that he does not know English so if any signature was obtained in the letter of English that was beyond his knowledge. He has also been constrained to admit that in this corporation no person who was been declared disabled to the extent of 100 per cent was absorbed by giving a light job. Now let me refer the documentary evidence adduced by the parties in this respect. From the side of the workman Ext. W-1 is filed which is the office order about the appointment of this incumbent. Ext. W-2 is the office order of his promotion. Ext. W-3 is the treatment card stating the injury on his skull, W-4 is the letter from the corporation to the concerned workman dt. 22-6-87 for appearance before the medical board constituted by the management. Ext. W-5 is the medical certificate of Kurji Holy Family Hospital with advice to stay for one month atleast for second stage of surgery. Ext. W-6 is the certificate about rest for further period and the cost of plastic surgery. Ext. W-7 is the certificate of Neuro Surgeon. Ext. W-8 is the certificate of Dr. K. K. Sinha, W-9 is the certificate of Dr. H. N. Verma upon which the workman relies for the remark that he is fit to join work which is dt. 31-8-88, Ext. W-10 is the office order dt. 19-8-87 about the grant of disability leave, W-11 is the office order dt. 31-8-87 about the payment of compensation and other reliefs awarded to the concerned workman and W-12 is the further compensation and payment for this accident. W-13 is the letter of the sponsoring union with a request to appoint him in the light job. W-14 is the letter of the concerned workman R. N. Mishra, W-15 is the premature retirement scheme on medical ground, W-16 is the letter of department of Oil and Natural Gas dt. 6-5-94. On the other hand from the side of the management 33 documents have been exhibited starting from Ext. M-1 to M-33.

12. It is an admitted position that the concerned workman was employed in this corporation as stated on 9-1-60 and he was promoted from time

to time. He used to enjoy the pay scale and other emoluments which he was entitled to relating to his post. It has also not denied by any period that he faced accident on 7-5-85 that accident was due to non-shutting down of High Tension line thereby the concerned workman sustained skull wound injury and it is also admitted position that the concerned workman was given medical aid at different places by the corporation and that was obviously best possible treatment and there is no grievance that the concerned workman was not given with proper medical aid.

13. It is also an admitted position that for such accident the incumbent concerned had no fault. It is not disputed that a medical board was constituted after a lapse of 2-1/4 years and for the said period all possible medical aids were given to the concerned workman for his cure. At the very outset it was argued that there is standing rule where it is stated that for medical examination the workman has to submit a sum of Rs. 10 as fees and as the same was not paid by the workman concerned there was no scope of examination of the said workman by the medical board.

14. I have gone through the relevant provision of the Standing Order and I am of the opinion that it is preposterous to think that in case of suffering of a workman to such grievous stage for a such long period the management would sit idle and go on paying the workman without ascertaining whether there is any chance of his improvement or whether he should be allowed to continue in his service. It is not expected whatever may be the reason of such accident and though it is unfortunate one that corporation would continue with such a person who is unable to perform his duty and without filling up that post the said workman would be allowed to continue when there is a special provision for compensation in this type of cases. So that provision is applicable only to the concerned workman if he wants to be examined by the medical board but if any workman remains silent after such a long lapse of time and then if the management makes arrangement to determine the extent of his disability whatever may be the reason of such accident I find no fault on the part of the management nor there is any wrong to constitute medical board for the determination of the extent of disability of the concerned workman who is facing treatment and is on leave for a period of 2-1/4 years.

15. Therefore this part of argument from the side of the workman is not convincing to me nor it is accepted. On the other hand I hold that the management was justified by constituting medical board for determination of the extent of the disability of the concerned workman.

16. In this premises I am not forgetful of the facts that pursuant to the formulation of the medical board and notice given to the concerned workman for examination before the medical board and his presence thereby for examination itself go to show that he accepted it without any prejudice and without raising any voice. This fact also appears from their own letter Ext. W-3. Nowhere in the said application it is stated that the medical board was constituted illegally or the report of the same is collusive and an out come of conspiracy between the management and the medical board which has been suggested in course of cross-examination. This application is of dt. 12-1-88. Therefore I have no hesitation to hold that the stand taken by the concerned workman about the legality of the constitution of the medical board and the opinion of the said medical board to be an outcome of conspiracy is baseless and after though. This fact is corroborated by Ext. M-4 and Ext. M-14, M-15. In Ext. M-14 the concerned workman on 16-12-87 wrote a letter to the General Manager, Barauni Oil Refinery stating that "in response to office order dt. 31-8-87 I declare the name of son Shri Biswanath Mishra to be absorbed in service. This may kindly be considered sympathetically." Ext. M-15 which is also under the signature of the concerned workman goes to show that he furnished the particulars of his dependant in different sheets stating their name, age status etc. If we consider these papers it is too big a pill to swallow that he raised any voice against the constitution of the medical board or finding of the medical board that he is 100 per cent disabled as it appears from Ext. M-4, M-5 and M-10. It is also in evidence as well as in Ext. M-18, M-17, M-19 it appears further that as per prayer of the concerned workman his son Biswanath Mishra was called for interview and he was selected and his medical examination was over and he was given with an appointment. However, Ext. M-20 goes to show that for the reason of not vacating the quarter in possession of the concerned workman the appointment of his dependant son was cancelled.

17. Incidentally it is observed that I refrain from making any comment in this regard as it is not within the ambit of this reference but I doubt about such illegality of such cancellation and the concerned parties will be at liberty to take proper step if the law so permits. However, the said document are sufficient enough to show that the concerned workman voluntarily accepted the constitution of the medical board and the opinion of the medical board and pursuant to that opinion he applied for the job of his dependant son which accorded by the corporation though it was not matured for other reason. It is also not disputed rather it appears from Exts. M-5, M-4, M-3 that there was order for constitu-

tion of the medical board and that so constituted before whom the concerned workman appeared. It also appears from Ext. M-10 that he was found to be disabled to the extent of 100 per cent and as per Ext. M-17 he was given compensation to the tune of Rs. 61,860.00 along with other benefits and it is also fortified by Ext. M-12. Furthermore, I find through Ext. M-13 he was given more amount as compensation totalling to Rs. 84,488 along with other benefits as mentioned therein.

18. It is not disputed that the concerned workman enjoyed such benefit. Ext. M-21 also goes to show that the concerned workman with reference to the office order dt. 31-8-87 claimed more benefits in clause 4 of the Standing Orders and made a prayer to that effect. So these papers which are till 1987, 1988 go to show that till that date he did not challenge about the validity of the medical board and the report submitted by them and the order of termination. So everything cropped up thereafter and that is an outcome after though and I have no hesitation to hold that for the said facts this concerned workman is now stopped to challenge the locality and validity of his order of termination after enjoying all benefits and keeping him silent for a pretty long time and thereby it cannot be well presumed that he has waived his right if any in this regard by his own conduct in the manner as stated earlier.

19. I have perused the written argument of the concerned workman and I am of the opinion that the main argument of the workman is related to the principles of Workmen's Compensation Act and in the matter of adjudication of that point it can be disposed off by one word that the Corporation has paid the compensation which is admissible under the Workmen's Compensation Act and as per rules nothing is due to him. So the legal positions which have been cited by the workmen are not applicable in the instant case.

20. It is a settled principle of law as enunciated in LLJ 1960 Vol. 2 referring two decisions of the Hon'ble Supreme Court is that continued ill health is sufficient ground for termination of a workman and that decision was also taken in 1984 Lab I.C. page 1375 where Their Lordships opined that if a person is unable to perform his job for continuous ill health and inability he could not be offered employment again nor it can be said that he has been retrenched within the meaning of the Act as amended. So the principles laid down in different case laws and the facts as stated above supported by the documentary evidence I cannot but hold that the corporation dealt with the matter with all sympathetic attitude and rendered all kinds of medical help for the recovery of the concerned workman who faced accident and

continued with prolonged treatment even after granting leave beyond rules and for that period he was given full wages with all benefits and lastly on compassionate ground job was also offered to his dependant son as per the choice of the concerned workman and in that case it will be hard to accept the contention of the concerned workman that any injustice was caused to him. He was also paid with the compensation with all other benefits after declaring him to be disabled to the extent of 100 per cent by constituting medical board which was accepted by the concerned workman initially and enjoyed the privileges pursuant to the said decision without any protest at an early stage. Therefore, when the concerned workman was found to be disabled to the extent of 100 per cent as per rules with giving all benefits the action of the management of Barauni Refinery by terminating the services of Shri Rabindra Nath Mishra, the concerned workman Technician Grade-B does not appear to be illegal nor it can be considered to be unjustified.

21. Only question which requires some discussions and the same is that the order of dismissal was passed on 31-8-87 but effect was given from 13-8-87 whether that portion of the order is illegal.

22. In this context the learned Advocate for the management contended that obviously the order should be of having retrospective effect in manner as this incumbent was only on leave from 2-11-84 years and on 13-8-87 he was declared to be disabled to the extent of 100 per cent so the management did not cause any wrong terminating his services from that date onwards though it was ordered and served subsequently. I find force in this argument and I hold that there is no illegality in passing such order of termination with effect from 13-8-87 instead of 31-8-87.

23. In view of the observation and finding made above the workman is not entitled to get any relief whatsoever. As a result it is ordered that the reference is decided against the concerned workman holding that the action of the management of IOC Barauni Oil Refinery Barauni in terminating the services of Shri Rabindra Nath Mishra, Technical Gr. 'B' w.e.f. 13-8-87 is legal and justified and consequently the concerned workman is not entitled to any relief.

24. Let an award be passed accordingly.

This is my Award.

Dt. 25-9-95.

D. K. NAYAK, Presiding Officer

नई दिल्ली, 6 अक्टूबर, 1995

का.आ. 2912.—औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय

सरकार महाराष्ट्र राज्य खदान निगम प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-95 को प्राप्त हुआ था।

[संख्या एल-29012/7/87-डी III(बी.)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 6th October, 1995

S.O. 2912.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Maharashtra State Mining Corporation and their workmen, which was received by the Central Government on 5-10-95

[No. L-29012/7/87-D.III(B)]

K.V.B. UNNY, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)
Case Ref. No. CGIT/LC(R)(212)/1987

BETWEEN

Shri Pillu Ram represented through the Vice-President,
Maharashtra Rajya Khadan Karamchhari Sangh, 44,
Parwana Bhavan, Kingsway, Nagpur (MS).

AND

The CMD, Maharashtra State Mining Corporation,
Abhyankar Nagar, Nagpur (MS).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri Deshkar.

For Management : Shri Govind Mishra, Advocate.

INDUSTRY : Mining DISTRICT : Nagpur (MS)

AWARD

Dated, September 21, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-29012/7/87-D. III(B) dated 7-10-1987, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the Management of Maharashtra State Mining Corporation, Nagpur in dismissing from service Shri Pillu Ram S/o Shri Sonu Ram w.e.f. 26-2-1985 is justified ? If not, what relief is the workman entitled to ?"

2. Admitted facts of the case are that the workman, Shri Pillu Ram, was working at Patgowari Dolomite Mines, Tehsil Ramtek, District Nagpur and he was charge-sheeted for beating the Mines Manager; that the workman was dismissed from the service with effect from 7-8-85.

3. The case of the workman is that the false report was lodged against him and the real fact is that the workman was beaten by the Manager, Shri Karanjewala. The workman has alleged that the finding of the Enquiry Officer is perverse and the discrepancies in the evidence were not taken into consideration. Workman has prayed for his reinstatement with back wages.

4. The case of the management is that on 18-2-85 workman, Shri Pillu Ram, assaulted Shri S. P. Karanjewala, Mines Manager, in his office during hours; that the workman has committed the misconduct against the Mines Manager, Shri Karanjewala, along with a co-worker and the Manager was ultimately rescued by the eye witnesses of the incident. The management has alleged that the workman has fully participated in the enquiry and the witnesses of the management was cross-examined by him, the workman has examined the witnesses in his defence. The management has alleged that the punishment to the workman was proportionate to his alleged misconduct and calls for no interference.

5. Following are the issues in the case.

ISSUES

1. Whether the domestic/departmental enquiry is proper and legal ?

2. Whether the punishment awarded is proper and legal ?

3. Whether the management is entitled to lead evidence before this Tribunal ?

4. Whether the termination/action taken against the workmen is justified on the facts of the case ?

5. Relief and costs ?

6. Issue No. 1 & 3 : The workman on 18-5-95 has rightly admitted the fairness of the domestic enquiry but he has challenged the findings of the Enquiry Officer and the quantum of punishment. Consequently, domestic enquiry is held legal and proper. Issue No. 1 & 3 are answered in favour of the workman.

7. Issue No. 2, 4 & 5 : S. P. Karanjewala (M.W.I) has stated that on 18-2-1985 at 3.25 p.m. Despatch Clerk Shri Paliwal, called the workman, Pilluram, and one Banke Lal through the Cheprasi to deliver the charge-sheet to them and that Pilluram and other worker came to my office and asked me why you have called them. That S. P. Karanjewala M.W.I told them to go to Shri Paliwal. After receiving the charge-sheet Pilluram again came to the office of the complainant (M.W.I) and started abusing and beating the complainant. M.W.I has further stated that Shri S. S. Srivastava and others rescued him and he lodged the report in the Police Station. Management has examined N. V. Mangre, Laxman Raghuvanshi, S. S. Srivastava, Jagdish Prasad, Workman examined himself and Banke Lal, Alam and Rakebabra in defence. N. V. Meghre, Laxman Singh and S. S. Srivastava, management witnesses, have clearly stated that on hearing the cry of S. P. Karanjewala, they rushed to the room of the complainant and saw that the workman, Pilluram, was abusing & beating Shri S. P. Karanjewala and they rescued Karanjewala. Consequently the statement of the complainant, S. P. Karanjewala, is fully corroborated by the statement of eye witnesses S/Shri N. V. Mengre, S. S. Srivastava and other witness of the management. There is nothing in the cross-examination to doubt the veracity of their statement. There is nothing in the statement of the workman or in his defence to discredit the version of these eye witnesses. Consequently, learned Enquiry Officer and the Disciplinary Authority have rightly concluded that the charges of misconduct are proved.

The misconduct of the workman of beating the Mines Manager in his office while he was on duty is a grave misconduct and as such the punishment of dismissal from the service of the workman is just and proper. Issues No. 2, 4 & 5 and the reference are answered in favour of the management. Workman is not entitled for any relief. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 6 अक्टूबर, 1995

का.आ. 2913.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाराष्ट्र स्टेट माईनिंग कार्पोरेशन के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध

में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-95 को प्राप्त हुआ था।

[संख्या एल-29012/6/87-डी-III (बी)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 6th October, 1995

S.O. 2913.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Maharashtra State Mining Corporation and their workmen, which was received by the Central Government on 5-10-1995.

[No. L-29012/6/87-D. III(B)]

K. V. B. UNNY, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Cast Ref. No. CGIT/LC(R)(213)/1987

BETWEEN

Shri Pukhraj S/o Shri Puna Ram represented through the Vice President, Maharashtra Rajya Khadan Karamchari Sangh, 44, Parawana Bhavan, Kingsway, Nagpur (MS).

AND

The CMD, Maharashtra State Mining Corporation, Abhyankar Nagar, Nagpur (MS).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri Agai.

For Management : Shri V. S. Verma.

INDUSTRY : Mining DISTRICT : Nagpur (MS)

AWARD

Dated : September 22, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-29012/6/87-D. III(B) dated 5-10-1987, for adjudication of the following industrial dispute :—

THE SCHEDULE

“Whether the action of the Management of Maharashtra State Mining Corporation Ltd., Nagpur in dismissing from service Shri Pukhraj S/o Shri Puna Ram w.e.f. 26-2-1985 is justified? If not, what relief is the workman entitled to?”

2. Admitted facts of the case are that the workman, Pukhraj, was working at Patgowari Dolomite Mine, Tahsil Ramtek, District Nagpur and he was charge-sheeted for bearing the supervisor; that the workman was dismissed from the service w.e.f. 26-2-1985.

3. The case of the workman is that the false report was lodged against him by the supervisor and the real fact of the case was that the workman was beaten by the supervisor. The workman has alleged that the finding of the Enquiry Officer is perverse and the discrepancies in the evidence were not taken into consideration. Workman has prayed for his reinstatement with back wages.

4. The case of the management is that on 6-2-1985 workman, Pukhraj, assaulted Shri Balwant Ramji Chinchalkar, in the mine premises during the working hours; that the workman has committed the misconduct against the Supervisor, Shri Chinchalkar, along with the co-workman and the supervisor was ultimately rescued by the eye witnesses of the incident. The management has alleged that the workman has fully participated in the domestic enquiry and the witnesses of the management were cross-examined and the workman has also examined the witnesses in his defence. Management has alleged that the punishment to the workman as proportionate to his alleged misconduct and calls for no interference.

5. Following are the issues framed in the case : ISSUES

1. Whether the domestic/departmental enquiry is proper and legal?
2. Whether the management is entitled to lead evidence before this Tribunal?
3. Whether the punishment awarded is proper and legal?
4. Whether the termination/action taken against the workman is justified on the facts of the case?
5. Relief and costs.

6. Issue No. 1 & 2.—The workman has availed all the required opportunity to defend his case in the domestic enquiry and he has rightly admitted that the D.E. was fair, legal and proper. Issue No. 1 & 2 are answered in favour of the management.

7. Issue No. 3&4.—Balwant Ramji Chinchalkar (M.W. 1) has stated that he was working as Supervisor and on 6-2-1985 at about 10 a.m. when he was on duty the workman started abusing him and when the workman was asked not to abuse, then the workman caught his left hand & started slapping him. Chinchalkar (M.W. 1) has further stated that Shri Srivastava and others rescued him

and he lodged the report in the Police station. Management has examined S. S. Srivastava (M.W. 2), Sitaram (M.W. 3) and others. S. S. Srivastava (M.W. 2), Sitaram (M.W. 3) have clearly stated that the workman, Pukhraj, gave two first blows on the back of Shri Chinchalkar. The presence of these two witnesses S. S. Srivastava and Sitaram on the place of incident is natural and there is nothing in the cross-examination to doubt the veracity of their statement. Consequently, the statement of complainant, Balwant Ramji Chinchalkar, is fully corroborated by the statement of eye witnesses, S. S. Srivastava and Sitaram and there is nothing in the statement of the workman or in his defence to discredit the version of these three witnesses. Consequently, the learned Enquiry Officer and Disciplinary Authority have rightly concluded that the charges of misconduct are proved.

8. The misconduct of the workman of beating his supervisor during duty hours is a grave misconduct and as such the punishment of his dismissal from service is just and proper. Issue No. 3 & 4 are answered in favour of the management.

9. Issue No. 5 : Dismissal of the workman from the service is held justified. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 6 अक्टूबर, 1995

का.आ 2914.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाराष्ट्र स्टेट माइनिंग कारपोरेशन के प्रबंधन के संबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचयत को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-95 को प्राप्त हुआ था।

[संख्या एन-29012/1/85-डी-III (बी.)]

के.वी.वी. उन्नी, डेस्क अधिकारी

New Delhi, the 6th October, 1995

S.O. 2914.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Maharashtra State Mining Corporation and their workmen, which was received by the Central Government on 5-10-95.

[No. L-29012/1/85-D.III (B)]

K. V. B. UNNY, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R) (87)/1986

- BETWEEN

Shri Kachro Motghare represented through the Vice President, Maharashtra Rajya Khadan Karmachari Sangh, Parvati Bhawan, 44, Kingsway, Nagpur (MS)-440001.

AND

The Managing Director, M/s. M.S.M.C. Ltd., 5, Abhyankar Nagar, Nagpur (MS)-440001.

PRESTIDED In :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri M. M. Deshkar.

For Management : Shri P. S. Nair, Advocate.

INDUSTRY : State Mining

DISTRICT : Nagpur (MS)

AWARD

Dated : September 21, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-29012/1/85-D.III(B) dated 31st October, 1986, adjudication of the following industrial dispute:—

SCHEDULE

"Whether the action of the management of M/s. Maharashtra State Mining Corporation Ltd., Nagpur in relation to their Pehra Sillimanite Mine in terminating the services of Shri Kachro Motghare with effect from 31-8-1984 is justified? If not, to what relief is the workman entitled?"

2. The case of the Union is that Shri Kachro Motghare was engaged to work as Mine Mazdoor by the management at their Pohra Sillimanite Mine, Sakoli, Bhandara and he was continuously working for last ten years. It is alleged by the Union that his services were illegally terminated vide notice dated 31-8-84. The Union has prayed for reinstatement of the workman with full back wages.

3. The case of the management is that Shri Kachro Motghare was given appointment with effect from 1-9-83 purely on temporary basis; that the workman had notorious record and it was made clear in his letter of appointment that his services were on probation for one year subject to his satisfactory record in service. The management has further alleged that the complaint of various workers were that he was inciting the workers not to work and that the workman committed insubordination and misconduct; that according to terms of probation the services of the workman was terminated. The management has further alleged that the workman has not continuously worked for 10 years and his services were terminated previously on account of indiscipline and bad record and in 1983 again the fresh appointment was given to the

workman and as such the workman is not entitled to get the relief of previous service before 1983.

4. Terms of reference was made the issue in the case.

5. Management has examined Purushottam Jagannath Gajhiye, Mines Manager (M.W. 1), Shri Samiran Dey Mine Foreman (M.W. 2), Shri Waman Bhojar, Mine Mate (M.W. 3) and these witnesses have clearly stated that with effect from 1-9-83 Shri Kachro, workman concerned, was appointed on temporary basis and his period of probation was one year. The workman, Shri Kachro, has stated that he was appointed since 1-3-76. The workman, Shri Kachro, has denied that his services were terminated and he was reappointed in the year 1983.

6. From the last para of the cross-examination of workman, Shri Kachro, it is clear that the workman has admitted that his services were terminated on the charge of misconduct. The workman has further admitted in his last para of his cross-examination that he was reappointed on the condition that he will not commit the misconduct. Consequently, it is clear from the statement of M.W. 1, Shri Purushottam, M. W. 2 Shri Samiran Dey and M.W. 3, Shri Waman Bhojar and from the admission made by the workman in the last paragraph of the cross-examination that the workman was reappointed with effect from 1-9-83 on probation.

7. My learned predecessor has observed vide order dated 11-12-1991 that the workman was on probation and his services were removed on the ground of misconduct without holding the departmental enquiry and as such the management should prove the misconduct against the workman.

8. Shri Purushottam (M.W. 1) has stated that he was working as Mines Manager and the workman, Kachro, was in the habit of leaving the working place without permission and he misbehaved with the deponent and he used filthy and threatening language. Shri Purshuttam (M.W. 1) has further stated that a warning letter was issued to him and after that the workman again incited other employees not to work. Shri Purushottam (M.W. 1) has stated that on account of notorious service record of the workman and on account of the repeated warnings to the workman to improve his behaviour, the services of the workman was terminated. Shri Samiran Dey (M.W. 2) Mines Foreman has also stated that workman, Kachro, misbehaved and abused the Manager and insulted him and Ex. M/5 is the show cause notice against him. M.W. 3, Shri Waman Bhojar, has stated that the workman was in the habit of inciting the workers not to work and used to misbehave the Manager for which Ex. M/3 report was lodged.

9. From the statement of Shri Purushottam (M.W. 1), Shri Samiran Dey (M.W. 2) and Shri Waman Bhojar (M.W. 3) the misconduct of the workman is fully proved and it is also clear that the workman is of notorious character. Consequently, the services of the workman during the period of probation was rightly terminated. Action of the management in ter-

minating the services of the workman w.e.f. 31-8-84 is justified. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 9 अक्टूबर, 1995

का.आ. 2015 --औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के सदस्य विवादकों और उनके कर्मचारों के बीच, झड़प में निदिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिनियम, कानपुर के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 6-10-95 को प्राप्त हुआ था।

[संख्या 14-12012/24/90-आई आर (बी-2)]

वी.क.शर्मा, डेस्क अधिकारी

New Delhi, the 9th October, 1995

S.O. 2915.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 6-10-95.

[No. L-12012/24/90/IR(B.D)]

V. K. SHARMA, Desk Officer
ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING
OFFICER, CENTRAL GOVERNMENT IN-
DUSTRIAL TRIBUNAL CUM LABOUR
COURT PANDU NAGAR DEOKI PALACE
ROAD, KANPUR

Industrial Dispute No. 176 of 1990

In the matter of dispute between :

Sri J. M. Mishra
General Secretary
Central Bank Employees Congress
C/o Central Bank of India
Nayaganj, Kanpur.

AND

Regional Manager
Central Bank of India
Regional Office Pandu Nagar,
Kanpur.

AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-12012/24/90/IR,B-II dated 3-8-90, has referred the following dispute for adjudication to this Tribunal :—

Kya Central Bank of India ke prabandhako
dwara Sri Shatrughan Lal Sharma Bhoot
purya Chaprasi, Rasoolabad, Shakha Ko

naukari barkhast war dene ki karywahi nyayochit avam kanooni hai? Yaad nahi ki saamandut karmkar kis anutosh ke haqdar hai?

2. The relevant pleading of the parties have been set forth in the findings on preliminary issue dt. 23-5-95 which is part of this award. A preliminary issue was framed about the fairness and propriety of domestic enquiry on pleadings of the parties. After hearing both sides and going through the record it has been held that the finding of the enquiry officer is perverse.

3. Side by side opportunity was given to the management to prove the case on merits. However, the workman moved an application on 21-7-95 drawing the attention of the Tribunal that the management had not reserved its right to prove the charge if the enquiry is found to be vitiated hence opportunity should not be given to them to prove the charge afresh before the Tribunal. By order dated 27-9-95, this application was allowed and the management have been deprived of the right to prove the charges on merits.

4. The net result of the above narration is that enquiry has been held to be vitiated against the concerned workman on the basis of which his punishment was founded. Further the management bank has not been afforded opportunity to prove the charges on merits before this Tribunal as they had not made a prayer for the same.

5. Hence on the basis of my finding regarding preliminary issue the punishment order is found to be held to be bad in law, the same being not based on any valid footing.

6. Hence, my answer to the reference will be in favour of the workman and in the negative. As such he will be entitled for his reinstatement with all back wages and continuity of service. The concerned workman shall also get Rs. 100 as costs of the cast from the management of Central Bank of India.

7. Reference is answered accordingly.

Dt. 28-9-1995.

B. K. SRIVASTAVA Presiding Officer

INDUSTRIAL DISPUTE NO. 176 of 90
Sri J. M. Mishra

AND

Central Bank of India
Order/23-5-95.

Preliminary issue

Whether the enquiry conducted by the management is fair and proper?

The concerned workman Shatrughan Lal Sharma, Peon of employer bank Central Bank of India and working at Kasulabad Branch. On 29-5-85, he was served with a charge sheet as under :—

At the time of his appointment in bank's service as Peon cum Waterman, Sri Shatrughan Lal Sharma has given his date of birth 21-5-57 and educational qualification Class VII passed in the year 1979 from Shrawan Kumar Madhyamik Vidyalaya, Sarvan Unnao.

It has been found that at the time of recruitment process for the post of peon during the year 1971-72 Sh. Shatrughan Lal Sharma had submitted an affidavit dt. 22-8-72 wherein he had deposed that he had passed VIII from Sardar Patel Memorial Model School Kanpur in the year '64' and had failed in class-VIII in the year '65' at the same school. In the said affidavit he had further deposed that his date of birth is 9-9-50.

Thus he had knowingly made false statements in respect of his date of birth and Educational qualification in connection with his employment in the bank and also submitted fake copies of certificates in respect of his educational qualification.

R. V. Dubey Faculty Leader STC Lucknow was appointed Enquiry Officer. After concluding enquiry, Enquiry Officer submitted his report holding him guilty on 29-5-85. On the basis of this report the services of the concerned workman terminated w.e.f. 28-6-86. Feeling aggrieved he has raised this industrial dispute.

In his written statement the concerned workman inter alia, has alleged that departmental enquiry he against him was not proper. Further the finding were perverse. On the other hand employer in their written statement has denied these allegations. On the basis of it above mentioned preliminary issue was framed on 1-3-95.

In support of his case the concerned workman has filed his affidavit as well as copies of enquiry proceedings. Employer has also filed copies of enquiry proceedings. On 27-4-95, the representative of concerned workman has made a statement that he does not challenge the validity of report because of procedural lapses. His only grievance is that findings

of the enquiry officer is perverse. The copy of enquiry proceedings are on record from which it is evident that the employer during the course of enquiry had only examined one S. K. Shukla who had investigated the matter and had reported that the school and the certificate given by the delinquent were fake. No other evidence was adduced despite or repeated opportunity. The concerned also did not adduce any evidence.

I have gone through the report of the enquiry officer. It was the constant stand of the concerned workman that earlier he had not filed any affidavit still the enquiry officer in his report has proceeded on the assumption that such affidavit was filed by the concerned workman and further that other relevant papers were also filed by him which are said to be fake. In my opinion, unless and until some one would have stated before the enquiry officer that these papers were filed by the concerned workman and that the affidavit was also delivered by him it could have been validly said that there was material on record to show that earlier the concerned workman had filed affidavit and other papers.

In my opinion the enquiry officer has gone to the extent of perversity when he found that these charges were proved against the concerned workman. The findings without the evidence will always be termed as perverse. Further I find that the entire report of the Enquiry Officer is based on surmises and assumptions. I am conscious of fact that during the course of enquiry as charge is not required to be proved beyond shadow of doubt. It needs only to be probabelised. In my opinion, in the instant case there was no whisper of evidence to probabelise the case against the concerned workman. In its absence, I have no option but to hold that the findings of the enquiry officer is perverse as such it is set aside.

23-5-95

नई दिल्ली, 9 अक्टूबर, 1995

का.आ. 2916.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडीकेट बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है; जो केन्द्रीय सरकार को 5-10-95 को प्राप्त हुआ था।

[संख्या एन-12012/8/89-डी-2(ए)/आई आर बी-2]

वी.के. शर्मा, डेस्क अधिकारी

New Delhi, the 9th October, 1995

S.O. 2916.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the

Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workmen, which was received by the Central Government on 5-10-1995.

(No. L-12012/8/89-DII(A)|IR (B.II))

V. K. SHARMA, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

CASE REF. NO. CGIT|LC|(R)(93)|1989

BETWEEN

Shri Sitaram Haribhan Dahlikar, Itwari Nehru Puda, Bharat Garrage, Nagpur (MS)-440 001.

AND

Manager, Syndicate Bank, Gandhibagh Branch Nagpur (MS)-440 001.

PRESIDED in :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For workman : None.

For Management : Ka Kukkilaya.

INDUSTRY : Banking DISTRICT : Nagpur (MS).

AWARD

Dated : September 21, 1995.

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12012/8/89-D2(A) dated 28-4-89, for adjudication of the following industrial dispute:—

SCHEDULE

"Whether the action of the management of Syndicate Bank in terminating the services of Shri Sitaram Haribhan Dahlikar and not considering him for further employment while recruiting fresh hands under Sec. 25H of the I.D. Act is justified? If not, to what relief is the workman entitled?"

2. Case of the workman is that his name was sponsored by the Employment Exchange, Nagpur and the Branch Manager, Syndicate Bank of India Nagpur, appointed him .w.e.f. 4-2-1986; that he has worked from 6-2-1986 to 31-8-1986 against the permanent post and his services were terminated; that after his termination other persons were given the employment. The workman has prayed for reinstatement with back wages.

1. The management of the management is that the workman was employed on leave vacancy and his posting was temporary but temporary; that the workman was employed only for 27 days and that no action was taken from the workman to be taken on regular service.

2. The management of reference was made the issue in this case.

3. For the purpose of the statement of claim and for the purpose of the statement. It is clear that the workman has been employed for 240 days. The workman has been employed for 240 days of the post in a calendar year. Consequently, the workman is not entitled to claim the benefit of Sec. 25B of the I.D. Act. Workman is not entitled for reinstatement and as such reinstatement from the service of the workman is not proper. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 9 अक्टूबर, 1995

सं.प्र. 2017—प्रयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अधिनियम में, केन्द्रीय सरकार जहाँ जहाँ जहाँ निम्न के प्रबंधन के रूप में निम्न के अधिनियम के अधिनियम में, केन्द्रीय सरकार औद्योगिक अधिकरण, जमशुद्धी जमशुद्धी के प्रकाशित करता है, जो केन्द्रीय सरकार का 5-10-95 को प्राप्त हुआ था।

[संख्या एल-17012/134/90/आई आर बी-2]

वी.के.शर्मा, डेस्क अधिकारी

[New Delhi the 9th October, 1995]

S.O. 2017.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Life Insurance Corporation of India and their workmen, which was received by the Central Government on 5-10-95.

[No. L-17012/134/90-IR(B.II)]

V. K. SHARMA, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Reference No. CGIT/LC(R)(2)/1991

BETWEEN

Shri Shankar A. Agarkar represented through the Ayuvima Chaturth Shreni Karam-

chari Sangh, Sant Tukodiji Nagar, Plot No. 218, Nagpur (MS).

AND

The Divisional Manager, Life Insurance Corporation of India, Kingsway, Nagpur (MS).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri Solanky

For Management : Shri M.K. Chatraj.

INDUSTRY Insurance DISTRICT : Nagpur (MS)

AWARD

Dated : September 14, 1995

This reference made by the Central Government, Ministry of Labour, vide its Notification No. L-17012/134/90-IR. B(II) dated 11-1-1991, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of LIC Nagpur by stepping down Shri Shankar A. Agarkar from the post of Driver to Peon with stopping 5 increments is justified? If not what relief the workman is entitled to?"

2. Admitted facts of the case are that the workman Shri Shankar A. Agarkar, was working as Driver on Jeep No. MGF 2823; that on 15-2-1986 the workman Shri Agarkar, was driving the said Jeep No. MGF 2823 and about 3.30 p.m. the said Jeep was seized and was challenged against the workman under Sec. 42(2), 84(1) of the Motor Vehicle Act for unlawfully using the Jeep to carry the passengers and for not keeping the required papers of the Jeep. It is also an admitted fact that the challan was filed in the Court of Judicial Magistrate, 1st Class, Darwha and the workman was convicted and sentenced to pay a fine of Rs. 75/- by order dated 17-2-1986. It is also a common ground that the charge-sheet dated 22-9-86 was issued against the workman and the workman has admitted that guilt before the Enquiry Officer; that the show cause notice was served against the workman proposing his removal from the service and ultimately the chairman imposed the penalty on the workman of reduction in the scale of pay by five stages and he was demoted from the driver to the post of Peon.

3. The case of the workman is that he was ordered by the office of the LIC Branch, Nagpur and on his way near Yeotmal three persons requested him to carry them and on the humanitarian ground three persons were allowed to sit on the jeep; that the punishment awarded to the workman is highly disproportionate to the prov-

ed misconduct. Workman has prayed for setting aside the punishment of stoppage of five increments and his demotion to the post of peon.

4. The case of the management is that the workman unlawfully took unauthorised passengers in the Jeep and he did not carry the required documents pertaining to jeep with him; that the workman has clearly admitted the guilt before the Judicial Magistrate and also after issuing the charge sheet against him. The management has alleged that lenient view is already taken in awarding the punishment and that the Tribunal has no jurisdiction to sit as an Appellate Court against the quantum of punishment.

5. Following are the issues in the case

ISSUES

1. Whether the enquiry is just, proper and legal ?
2. Whether the management is entitled to lead evidence before this Tribunal ?
3. Whether the charges of misconduct are proved on the facts of the case ?
4. Whether the punishment awarded is proper and legal ?
5. Relief and costs ?

6. Issue No. 1 & 2 : The workman has admitted the fairness of the enquiry. The workman has challenged only the quantum of punishment. Issue No. 1 & 2 are answered in favour of the management.

7. Issues No. 3, 4 & 5 : It is an admitted fact that the workman has admitted the guilt before the Judicial Magistrate, Ist Class; on the basis of his admission he was convicted under Sec. 42/123(2), 86/112 and 78/112 of the Motor Vehicle Act for unlawfully carrying the passengers and for not possessing the required documents pertaining to jeep. It is also an admitted fact that the charge-sheet to the workman was issued and in the D.E. the workman has clearly admitted his guilt. Consequently, the only point for consideration is whether the punishment awarded to the workman is proportionate to the proved misconduct.

8. The management has argued that the management is a final authority to order the quantum of punishment where the punishment is not by way of discharge or dismissal. The management has submitted that the Tribunal's power to review the punishment awarded and to give the appropriate relief to the workman is governed by Sec. 11A of the I.D. Act and only in case of discharge or dismissal of the workman the Tribunal has a right to modify the punishment. The management has relied on the citation *Rallies (India) Ltd. Vs. K. Natrajan* (1977-I-LLJ 33) and *Management of State Bank of India Vs. J.D. Jain* (1979 Lab.

L.C. 1041) at p. 1042. The management has not awarded the harsh or disproportionate punishment to the workman who has found guilty of unlawfully taking the jeep for the purpose of carrying the passengers. The workman was also found guilty for driving the jeep without having the required documents. In this back drop, the quantum of punishment awarded to the workman is not liable to be interfered. Management has taken a lenient view and no further claimancy on the issue of punishment is called for consequently, findings of the management with regard to Issues No. 3 & 4 are hereby confirmed. The management was justified in stopping five increments of the workman and stopping down the workman from the post of driver to the post of Peon. Reference is answered in favour of the management. Workman is not entitled for any relief. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 9 अक्टूबर, 1995

का.शा. 2918:- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबन्धतंत्र के संलग्न नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2, बम्बई, के पंचवट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-10-95 को प्राप्त हुआ था।

[सं. एल-12012/426/92-आई.आर.बी.-II)]

वी.के. शर्मा, डेस्क अधिकारी

New Delhi, the 9th October, 1995

S.O. 2918.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workmen, which was received by the Central Government on 6-10-1995.

[No. L-12012/426/92-IR(B. D)]

V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/31 of 1993

Employers in relation to the Management of UCO Bank.

AND

Their Workmen.

APPEARANCES :

For the Management : A. S. Kuber,
Representative.

For the Workmen : J. C. Shukla,
Representative of Union.

Bombay, the 21st September, 1995

AWARD PART-I

The Government of India, Ministry of Labour by its letter No. L-12012/426/92-IR(B. II), dt. 26-3-93 had referred to the following industrial dispute for adjudication.

"Whether the action of the management of Deputy General Manager, United Commercial Bank, Bombay in dismissing the services of Shri Vijai Vithobaji Khadilkar vide letter No. Nil dt. 30-9-88 is justified? If not, to what relief the workman is entitled to?"

2. Vijay Vithobaji Khadilkar was appointed as a Peon in the Bank on 18th January, 1983. He was posted at Mahakali Branch of the Bank at Chandrapur. He had unblemish record and he hails from Schedule Caste and physically handicapped.

3. The workman contended that it was alleged against him that he withdrew 6,000 rupees from the S.B. A/c No. 1687 of Kumari Kalpana Alone on 15-1-88. He pleaded that on February 2nd, 1988 and on February 4, 1988 the Branch Manager purchased liquor and compelled the worker to drink it. After drinking the same by using undue influence and coercion he got the confession on the above said dates from the worker in respect of the alleged said charge.

4. The workman contended that on 11th of February, 1988 a show-cause notice was given to him and no charge-sheet was given to him even though his representative requested the management to give him a charge-sheet before the enquiry is started, but it was in vain. It is alleged that the Departmental Enquiry which was held against him was against the principles of natural justice. It is pleaded that as per the Bipartite Settlement it is held that if a guilt is admitted then he should not be punished with dismissal. It is averred that he was not given an opportunity of hearing before the enquiry. The whole enquiry was based on the show-cause notice which is against the Bipartite Settlement. It is pleaded that the Disciplinary Authority acted as per his own and set aside all the rules, procedures and the principles of natural justice. It is submitted that the workman had already deposited the amount of Rs. 6,000 in the Bank and there was no loss to the Bank. It is pleaded that in a Departmental Enquiry there is no evidence against the workman to prove the alleged allegations.

5. The workman contended that the punishment awarded to him is disproportionate to the charges proved. It is submitted that he was discriminated while awarding the punishment. He prayed that the order of the dismissal be set aside and he may be reinstated in service with continuity and backwages.

6. The management filed the written statement at Ex. 3. They denied all the allegations against them. It is submitted that the Domestic Enquiry which was held against the workman was as per the principles of natural justice. It is pleaded that the punishment which was awarded to the workman is perfectly legal and proper. It is averred that the Disciplinary Authority considered the appeal filed by the workman, and after giving due consideration to his submissions awarded punishment. It is averred that the procedure contemplated in the Bipartite Settlement was followed. It is prayed that the reference may be rejected.

7. I framed issues at Ex. 11. The issue No. 1 is to be treated as a preliminary issues because it relates to Domestic Enquiry. The issue and my findings thereon is as follows.

ISSUES**FINDINGS**

- | | |
|---|--|
| 1. Whether it is proved that the domestic enquiry held against the workman was against the principles of natural justice? | The Enquiry was against the principles of natural justice. |
|---|--|

REASONS

8. The workman examined himself at Ex. 9, one Muzza Arif Baig (Ex. 10) a Peon in that Branch was examined to prove that he was asked by the then Branch Manager to bring the liquor for giving it to the worker. As against this, Suresh Agarwal the Branch Manager (Ex. 13) lead evidence on behalf of the management. The Employees' Association have filed documents at Ex. 5 to substantiate the case. The management had not produced any documents.

9. The representatives of the union and that of the management argued the matter before me on behalf of the union. It is vehemently argued that the whole Departmental Enquiry is without any basis, as the charge-sheet was not prepared and was given to the worker. This fact is not denied by the management.

10. It is not in dispute that on February 11th, 1988, the letter (Ex. 5/7) was issued by the management to the workman to show-cause along with a suspension order, notifying the Enquiry Officer and Presenting Officer and also containing the charges levelled against the workman. After receipt of this letter the workman raised the protest and requested the management that he is required to be given a

charge-sheet and no Domestic Enquiry can be initiated on the basis of the show-cause notice (Ex. 5/9). It is pertinent to note that in a Statement of Claim the workman had contended that the management issued him a letter on 23rd of March, 1988 by which it was informed to him that there was no necessity to issue a charge-sheet to the delinquent employee. So far as this contention is concerned the management had not denied the same in their written statement. In other words it has to be accepted that no chargesheet was issued to the workman before conducting the Domestic Enquiry.

11. It is not in dispute that the service conditions of workman employed in UCO Bank are governed by the provisions of Bipartite Settlement which was initially entered into by the Bank employees and Indian Bank Association on 19-10-66 and came to be amended from time to time by Bipartite Settlement.

12. Chapter 19 of the Memoranda of Bipartite Settlement deals with disciplinary action and procedure thereof. Paragraph 19.12 states that the procedure in such cases shall be as follows :—

(a) An employee against whom disciplinary action is proposed or likely to be taken shall be given a charge-sheet clearly setting forth the circumstances appearing against him and a date shall be fixed for inquiry, sufficient time being given to him to enable him to prepare and given his explanation so also to produce any evidence that he may wish to tender in his defence. He shall be permitted to appear before the Officer conducting the enquiry, to cross-examine any witness on whose evidence the charge rests and to examine witness and produce other evidence in his defence. He shall also be permitted to be defended.—

(i) (x) by a representative of a registered trade union of bank employees of which he is a member on the date first notified for the commencement of the enquiry.

(y) where the employee is not a member of any trade union of bank employees on the aforesaid date, by a representative of a registered trade union of employees of the bank in which he is employed :

OR

(ii) at the request of the said union by a representative of the state federation or all India Organisation to which such union is affiliated;

OR

(iii) with the Bank's permission, by a lawyer.

He shall also be given a hearing as regards the nature of the proposed punishment in case any charge is established against him.

13. Here in this case there is complete violation of this paragraph, the show-cause notice cannot be termed as a charge-sheet. No doubt, in this show-cause notice there is a contention taken by the management in the first two paragraphs. Then there is a narration what had taken place later on. Then it deals with appointment of Enquiry Officer and Presenting Officer. The show cause letter further deals with suspension and the suspension allowance and other things. By no stretch of imagination it can be said that this letter is in compliance with paragraph 19.12 of the Bipartite Settlement. If this is so it was to be said that it has violated the principles of natural justice. The Domestic Enquiry which was held against the workman is not just and proper. It is tried to argue on behalf of the workman that if the alleged plea of admission of guilt is accepted then the management should not have passed the punishment of dismissal. At this juncture, I need not comment on it. So far as the oral evidence is concerned it relates to the factual position. As I have decided issue No. 1 as preliminary issue it is not necessary to mention those facts at this juncture.

14. Now it is well settled that when the Tribunal comes to the conclusion that the Departmental Enquiry is against the principles of natural justice, then the management is to be given an opportunity to lead evidence and substantiate its case. In the result I record my findings and my issues accordingly and pass the following order :

ORDER

1. The Domestic Enquiry held against the workman was against the principles of natural justice and is void.
2. The management is allowed to lead evidence.

S. B. PANSE, Presiding Officer

नई दिल्ली, 10 अक्टूबर, 1995

का.सा. 2919:- शैक्षणिक विवाद - निष्पत्ति, 1947 (1947 का 14) की धारा 17 के अन्वयेण में, केन्द्रीय सरकार एक ही पार्टी के प्रबंधकों के संलग्न विवादों और उनके कर्मचारियों के बीच, अन्तर्गत में निर्दिष्ट शैक्षणिक विवाद में केन्द्रीय सरकार शैक्षणिक अतिक्रमण, वास्तव के संघर्ष को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-10-95 को प्राप्त हुआ था ।

[सं.पल.-22012/259/91-का.सा. 2919 (सं.पल.) /

राजा लाल, सहायक अधिकारी

New Delhi, the 10th October, 1995

S.O. 2919.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of FCI and their workmen, which was received by the Central Government on the 6-10-95.

[No. L-22012|259|91-IR(II)]
RAJA LAL, Desk Officer.

ANNEXURE

BEFORE SRI B K SRIVASTAVA PRESIDING
OFFICER CENTRAL GOVERNMENT INDUS-
TRIAL TRIBUNAL CUM LABOUR COURT
PANDU NAGAR, DEOKI PALACE ROAD

KANPUR

Industrial Dispute No. 171 of 1991

In the matter of dispute between :—

Sri Siya Ram Pandey
C/o Sri T S Singh
41|451 Janki Bhawan
Narhi Sabji Mandi
Lucknow.

AND

The Senior Regional Manager
FCI 5|6 Habibullah Estate
Hazaratganj Lucknow.

AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-22012|259|81-IR(CII) dated 3-10-91, has referred the following dispute for adjudication to this Tribunal:—

“Whether Senior Regional Manager, Food Corporation of India Lucknow was justified in imposing the penalty of lowering the pay to minimum time scale drawing last to Sri Siyaram Pandey Watchman after his retirement and not grant of full wages for the suspension period from October 1983 to January 1987. If not what relief the workman is entitled to?”

2. The concerned workman Siyaram Pandey was posted as Watchman at FSD Mahoba in 1963. In the night intervening 9|10-10-93 a truck containing 110 bags of wheat sought to be smuggled from this depot when it was intercepted by the administration. At that time concerned workman is said to have been sitting in the back side of the truck where wheat bags were stored.

He escaped from the spot. Later on he was apprehended. It appears that a criminal case was launched in this regard in which the concerned workman and others were acquitted. Thereafter the instant disciplinary proceedings were launched against the concerned workman and others in which it was once again alleged that the concerned workman with the connivance of other personnel had tried to criminally misappropriate 110 bags of wheat and thereby causing financial loss to FCI. This chargesheet was given on 17-9-86. A A Quazmi Dy. General Manager, was appointed Enquiry Officer. Before him D D Sharma M G was examined. Besides three papers, namely, FIR copy of judgment of criminal court dated 10-10-86 and letter of District Manager Jhansi were relied upon. The concerned workman filed three papers and also examined himself but no oral evidence could be adduced. On a review of this evidence the enquiry officer in his report dated 10-1-90 found the charge as proved. Agreeing with this report, the disciplinary authority by order dt. 8-2-90 has imposed a penalty of lowering the pay to the minimum time scale and further denied full wages for the suspension period. Feeling aggrieved by this punishment the concerned workman has raised the present industrial dispute.

3. In the claim statement the concerned workman has denied the complicity in the incident. Further it was alleged that he had applied to the enquiry officer for certain papers and further for summoning witnesses in defence but the enquiry officer has refused this opportunity. It was further alleged that in any case the version of the management was not duly proved. Hence, the enquiry was not held fairly and properly.

4. The management in its written statement has alleged that enquiry was fairly and properly held. The enquiry officer was justified in refusing to summon the witnesses as their evidence was not relevant. Further the documents were not filled as toy were not available.

5. On the basis of these pleadings the following preliminary issue was framed.—

Whether departmental enquiry was not conducted fairly and properly ?

In this tribunal the concerned workman filed his affidavit on 4-9-92 in order to show that he has been prejudiced. In rebuttal there is evidence of a C Dutta, MW1 who was the District Manager of Banda.

6. Siya Ram in his affidavit has once again sworn that he was not afforded opportunity to adduce evidence in defence. Further he was deprived of the advantage of relying upon documents before the enquiry officer when he refused to summon the papers. N C Dutta WW1 has submitted that at the time of enquiry he was not present.

Thus his evidence being not based on person knowledge is of no use.

7. In order to lead support to the evidence of concerned workman reliance has also been placed on the copy of application dt. 22-12-89 which was filed before the enquiry officer. Prayer was made for summoning one more duty register, attendance register acquaintance roll for payment of salary at Jhansi for the month of September 1983, and leave application dt. 9-10-83. Further request was made for summoning Kabir Mohd. AGII and Zahid Ali III. The enquiry officer passed an order on that very day to the effect that no further effort can be made for untraceable documents. It was further observed that evidence of so called witness was not relevant. Hence this application was rejected.

8. From a perusal of disciplinary proceedings file it appears that the concerned workman has set up a plea of 'alibi' and to substantiate it he wanted to rely upon documents the reference of which have been made above and also of oral evidence of the two witnesses mentioned above. I find substance in the contention of authorised representative for the concerned workman that this evidence were relevant to prove versions of concerned workman. In my opinion, the enquiry officer was not justified in making observations that the evidence of these witnesses was not relevant. Question of relevancy of the evidence work have arisen duly when evidence was adduced before him. After perusal of the same it could have been reserved as to whether their evidence were relevant or not. Similarly by the inaction of the S.O. in not ordering for procurement of documents has also caused prejudice in making proper defence. Apart from this in order to show that the concerned workman was present when the truck containing wheat bags was smuggled out. The evidence of eye witness would have been relevant. Since D D Sharma was not a witness of fact his evidence was of no use. The proper course would have been to have produced the maker of the report or any other witness of the rading party like Joint Magistrate Sri S. Ahluwalia or member of his staff. In my opinion simply on the basis of FIR launching criminal case, it cannot be said that the case against the concerned workman was proved. In my opinion, in such case there was no evidence to prove complicity of the concerned workman stall. Hence, because of prevedural lapses by denying opportunity to the concerned workman to adduce evidence in defence and also because enquiry officer finding is not on the basis of reliable evidence. I come to the conclusion that enquiry was not held fairly and properly and further findings is not fair as such it is set aside.

9. I have gone through the file. The employer has not reserved its right in the written statement to prove the guilt of the concerned workman in

this Tribunal if the enquiry is held to be vitiated. Even no separate application has been moved subsequently for this purpose. In its absence as held in the case of Shambhu Nath versus 1963 Lab IC, 1697 (SC), the employer cannot be afforded opportunity to prove the misconduct before this Tribunal.

10. As the punishment of the concerned workman is based on the report of enquiry officer which has been held to be vitiated it becomes obvious that the action of the management in imposing he penalty as per reference order is not justified. As such the findings is recorded in favour of the workman and against the management.

11. Consequently the concerned workman is entitled for all financial benefits on the basis as if no penalty has been imposed against him. Concerned workman shall also get Rs. 200 as costs.

12. Reference is answered accordingly.

27-9-95

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 10 अक्टूबर, 1995

का.प्र. 2920:- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस ई सी एल के प्रबन्धन के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-95 को प्राप्त हुआ था।

[नं. एल.-22012/56/93-आई आर(सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 10th October, 1995

S.O. 2920.-In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of SEC Ltd. and their workmen, which was received by the Central Government on the 5-10-95.

[No. L-22012/56/93-IR(II)]

RAJA LAL, Desk Officer.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).

Case Reference No. CGIT/IC(R)(226)/1993
BETWEEN

Shri Ramayan Prasad Sahu, represented through the Vice President M.P. Koyla Shramik Sangh, Head Office-Surakchhar Colliery District Bankimogra, Bilaspur (MP).

AND

The Sub-Area Manager, S.E.C.L. Balgi Project, P.O. Balgi Project, District Bilaspur (MP)-495447.

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For workman : Shri Kameshwar Singh.

For Management : Shri R. Mukhyopadhyaya.

INDUSTRY : Coal Mine **DISTRICT :** Bilaspur (MP)

AWARD

Dated : September 25, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/56/93/IR(C-II) dated 21/22-10-1993, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of SECL, Balgi Project, in denying promotion as turner and giving Categor IV Wages to Shri Ramayan Prasad Sahu is legal and justified ? If not, to what relief the workman is entitled to ?"

2. This case was fixed for evidence of the workman on 22-8-1995. On 22-8-1995 workman absented himself, but the management filed a Memorandum of Settlement dated 6-6-95 duly signed by the representative of the workman, Shri Kameshwar Singh. The terms of settlement are as under.

TERMS OF SETTLEMENT

1. It is agreed that Shri Ramayan Prasad Sahu who was working as Turner Helper w.e.f. 1-5-88 shall be deemed to be promoted as Turner in Cat. V w.e.f. 16/20-7-90 instead of Workshop Mechinst in Cat. IV.
2. Shri Ramayan Prasad Sahu shall only be entitled for notional fixation and seniority in the category of Cat. V as Turner till the date of settlement w.e.f. 16/20-7-90.
3. There will not be any type of financial implication because of arriving of this settlement and he shall not be entitled

for arrears wages or any type of other benefits, because of his placement in Cat.V instead of Cat. IV.

4. After signing this agreement, the workman shall not raise any dispute in this regard to any other authority for any reference and claim either in person or through any union or through other media or any other level.
5. This settlement will be full and final for any claim whatsoever and will be binding on both the parties under the agreement.
6. Shri Kameshwar Singh representing the workman agreed to withdraw the CGIT case CGIT : LC : 226/93.
3. The aforesaid terms of settlement are just and fair. In view of the aforesaid settlement no dispute award is passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 1995

का.आ. 2921:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टैलीकॉम मादानापल्ली, चित्तूर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, आंध्र प्रदेश के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-95 को प्राप्त हुआ था।

[सं. एल.-40012/117/90-आई आर (डी यू.)
के बी बी उन्नी, डेस्क अधिकारी]

New Delhi, the 12th October, 1995

S.O. 2921.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Andhra Pradesh as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Telecommunication, Madanapalli and their workmen, which was received by the Central Government on 12-10-95.

[No. L-40012/117/90-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri A. Hanumanthu, M.A., LL.B., Industrial Tribunal-I.

Dated : 18th day of August, 1995.

Industrial Dispute No. 28 of 1995

BETWEEN

Sri B. Satyanarayana,
S/o Rajaiah, Angallu (PO),

Madanapalli (TQ), Chittoor Dist. A.P

.. PETITIONER

AND

1. The Divisional Engineer,
Telecommunications,

Tirupathi-51701

2. The Sub-Divisional Officer,
Telecom, Madanapalli,

Chittoor Dist.

RESPONDENTS.

APPEARANCES :—

M/s. M. Venkataram Reddy and Bharathi,
Advocates—for the Petitioner.

Sri P. Damodar Reddy, Addl. Standing Coun-
sel—for Central Government for
Respondent.

AWARD ..

This is a reference made by the Government of India, Ministry of Labour, by its Order No. L-40012/117/90-IR(DU), dt. 17-1-1995 under Section 10(1)(d) & (2A) of the Industrial Disputes Act, 1947 for adjudication of the dispute mentioned in the schedule which reads as follows :

“Whether the action of the Sub-Divisional Officer Telecommunications Madanapalli, Chittoor Dist (A.P) in terminating the services of Sri B. Satyanarayana, Short Duty Telephont Operator by the end of September 1981 is proper, legal and justified ?

If not, to what relief the workman is entitled”

This reference is registered as Industrial Dispute No. 28 of 1995 on the file of this Tribunal.

2. The notices issued by this Tribunal was served on both the parties. The advocates for both the parties have filed their vakalats, and the case was posted for filing claim statement from time to time. On 25-7-1995 claim statement was not filed. The petitioner and his Advocate were called absent and no representation was made on behalf of the Petitioner. Hence the petitioner was set *exparte*. For counter of the Respondent the case was posted to 18-8-1995. On 18-8-1995 the counsel for the Respondent submitted that the Respondent is not filing any counter as the Petitioner remained *exparte*.

3. Under the circumstances, there are no triable issues and hence the reference is closed.

Typed to any dictation, given under my hand and the seal of this Tribunal, this the 18th day of August, 1995.

A. HANUMANTHU, Industrial Tribunal-I
Appendix of Evidence:

NIL

नई दिल्ली, 12 अक्टूबर, 1995

का.आ. 2922.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टैलीकॉम चित्तूर के प्रबन्धसंस्थ के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-95 को प्राप्त हुआ था ।

[संख्या एल-40012/165/92-आई. गार. (डी.यू.)]
के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 12th October, 1995

S.O. 2922.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Hyderabad as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Telecom, Chittoor and their workmen, which was received by the Central Government on 12-10-95.

[No. L-40012/165/92-IR(DU)]
K. V. B. UNNY Desk Officer

ANNEXURE

**BEFORE THE INDUSTRIAL TRIBUNAL AT
HYDERABAD**

PRESENT :

Sri A. Hanumanthu, M.A., LL.B., Industrial
Tribunal-I.

Dated : 18th day of August, 1995.

Industrial Dispute No. 5 of 1994

BETWEEN

Sri S. N. Dandapani, Ex-SDTO,
4-9/4-10 Balajinagar,

Greampet, Chittoor-517 002 .. Petitioner

AND

The Divisional Engineer,

Telecom, Tirupathi-517 501. .. Respondent.

APPEARANCES :—

M/s. C. Surayanarayana, B. Yogender Singh
and N. R. Srinivasan, Advocates—for
the Petitioner.

Sri P. Damodar Reddy, Additional Standing Counsel—for Central Govt.—for Respondent.

AWARD

The Government of India, Ministry of Labour, New Delhi, by its Order No. L-40012/165/92-IR-(DU), dt. 10-1-1994 made this reference under Section 10(1)(d) & (2A) of the Industrial Disputes Act, 1947 (hereinafter called Act) for adjudication of the industrial dispute mentioned in its schedule which reads as follows :

“Whether the action of the Sub-Divisional Officer, Telecom Chittoor in terminating the services of Sri S. N. Dandapani, Ex-Short Duty Telephone Operator in Sept., 1981 is justified? If not, to what relief the workmen entitled?”

This reference has been registered as Industrial Dispute No. 5 of 1994. After receiving the notices issued by this Tribunal, both parties but in their appearance and they are being defended by their counsel.

2. On behalf of the Petitioner-Workman, a claim statement has been filed to the following effect. The petitioner was recruited as Short Duty Telephone Operator by the Sub-Divisional Officer, Telecom (now called Sub-Divisional Engineer, Chittoor) in December, 1980, that the Petitioner was continuously employed by the said Sub-Divisional Engineer, Telecom, Chittoor from 13-12-80 to 6-9-1981. Thereafter the Petitioner's service was terminated without any notice or reason therefor. He was also not paid one month's wages in lieu of notice or compensation as per the mandatory provisions of Section 25-F of the I.D. Act. The petitioner was employed for 268 days within a span of one year commencing from 13-12-1980 or within one year preceding 6-9-1981. Hence this termination is retrenchment within the meaning of Section 2(o) of the I.D. Act. In view of non-fulfilment of the mandatory provisions under Section 25-F of the I.D. Act, the retrenchment of the petitioner is illegal, null and void. At the time of his termination, he was not informed that he was terminated because that regular telephone operators were available or that short duty telephone operators under 'B' List were posted by the Divisional Engineer Telecom. The Petitioner had been terminated orally. The Petitioner's termination is arbitrary. The Petitioner was entitled to be treated as Reserve Trained Pool Telephone Operator in accordance with the Director General. P&T Order dt. 29-11-1980 read with the Director General clarification dt. 28-3-1981. The Department of Telecom. being an industry within the meaning of Section 2(j) of the I.D. Act the Petitioner workman is entitled to the benefits, of protection of Section 25-F of the I.D. Act against the arbitrary action of the authorities in retrenching the workman without notice or payment of notice wages and compensation. In fact I.D. No. 29/88 between

G. Ramamurthy and the D.E. Telecom., Bhimavaram, West Godavari District, this Tribunal upheld the demand of the workman therein for absorption on regular basis either as Telephone Operator or Telephone Office Assistant. The said Orders of this Tribunal were upheld by the principal Bench of Central Administrative Tribunal in O.A. No. 927/91. The Petitioner is entitled to similar treatment and for similar benefits in as much as his case stands on an identical footing. Hence the Petitioner prays for his reinstatement and absorption as regular telephone operator or as Telecom Office Assistant with continuity of service and all other benefits which are consequential and incidental to his reinstatement and absorption.

3. On behalf of the Respondent, a counter has been filed to the following effect. The Petitioner was engaged by the then Sub-Divisional Officer, Telecom, Chittoor as Short Duty Telephone Operator on casual basis from 13-12-1980 to the over the absenteeism of regular telephone operators in Chittoor. As seen as the attendance of regular operators is improved there was no need for the services of the petitioner. At the time of engagement of the petitioner on casual basis it was made clear to him that his services would be disengaged without any notice as soon as the attendance of regular telephone operators is improved. The petitioner accepted for this condition. He is not eligible for any compensation as per the provisions of Section 25-F of the I.D. Act. Eventhough the petitioner was engaged for 268 days from 13-12-1980 to 6-9-1981 he was not given full day work on any day. A work day consists of 8 working hours. When a person is engaged for less than 8 hours it cannot be called as a work day. The petitioner was engaged on hour to hour basis and he has no right for continuous work in the Respondent-Department. The duty chart for the month of March 1981 discloses absenteeism and shortage were 1261 hours. To over come this difficulty the S.D.T.Os were engaged for 800 hours. The said chart reveals that the Petitioner herein was engaged between 1-3-1981 to 20-3-1981 at 3 hours day and from 22-3-1981 to 30-3-1981 at 3 hours day and the petitioner worked for 25 days in total but the working hours will come to 75 hours only. The order of selection of S.D.T.O. dt. 12-12-80 clearly states that their selection is provisional to work as Short Duty Telecom., Chittoor reserves the right to discontinuement and they will not have special claim for absorption into Department as regular Telephone Operators and their services are likely to be terminated as soon as the regular telephone operators are available or as soon as S.D.T.Os from 'B' list are posted by the Divisional Engineer, Telecom and the Sub-Divisional Officer, Telecom., Chittoor reserves the right to discontinue the services of any of the candidates without assigning any reason. The services of the petitioner was terminated as attendance of regular

telephone operators was improved. The name of the petitioner could not be considered for regular appointment as he was not borne in 'B' list (waiting list). Moreover the petitioner is agitating for his right after a lapse of eight or nine years and it is barred by time. Further the petitioner has not turned up to work as Short Duty Telephone Operator when the Department has called him for duty subsequently whenever there was necessity. As such his candidature to Reserve Trained Pool Telephone Operator in accordance with the rules could not be considered. As the petitioner failed to turn up several times without showing any reason, his name has removed and not considered for absorption as Reserve Trained Pool Telephone Operator. The claim of the Petitioner is neither bonafide nor justified. The Petitioner was gainfully employed and engaged in profitable avocation all these years. The petitioner is now making an attempt to procure Government employment with mala fide intention to overcome the regular recruitment norms like Reservation nativity seniority at the Employment Exchange etc. There are no merits in the claim of the Petitioner. Hence the Petitioner is not entitled for any relief.

4. On behalf of the Petitioner, W.W1 is examined and Ext. W1 to W6 are marked. The petitioner S. N. Dandapani got himself examined as W.W1, and he deposed to the averments in his claim statement. No oral or documentary evidence is adduced on behalf of the Respondent. On 26-6-1990 when the matter was posted for the evidence of the Respondent, the respondent and his counsel were absent and as such the respondent has been set exparte. The details of the documents Ext. W1 to W6 marked on behalf of the Petitioner are appended to this Award.

5. The points that arise for consideration are :

(1) Whether the action of the Sub-Divisional Officer, Telecom, Chittoor in terminating the services of the Petitioner N. S. Dandapani Short Duty Telephone Operator w.e.f. 6-9-1981 is justified ?

(2) To what relief the petitioner S. N. Dandapani is entitled ?

6. POINT (1):—The admitted facts as revealed from the evidence on record are as follows:—The Petitioner S. N. Dandapani was selected provisionally to work as Short Duty Telephone Operator, Chittoor Telephone Exchange, on 12-12-1980 along with nine others. Ex. W3 is the letter dt. 12-12-1980 selecting the petitioner and 9 others. In pursuance of the said selection, the Petitioner joined the office of the Sub-divisional Office, Telecom, Chittoor on 13-12-1980. He attended to the duties till 5-9-1981 and he was discharged from service on 6-9-1981. Even before joining the service, the

petitioner underwent training from 24-11-1980 to 8-12-80 and Ex. W2 is the certificate relating to the said training. Ex. W1 is the certificate given by the Sub-Divisional Officer, Telecom, Chittoor to the effect that the petitioner worked as Short Duty Telephone Operator in Telephone Exchange, Chittoor from 13-12-1980 to 6-9-1981.

7. It contended on behalf of the petitioner that the Petitioner worked continuously for 268 days i.e. from 13-12-1980 to 6-9-1981, that without giving any, notice or pay, in lieu of notice and without paying retrenchment compensation as provided under Section 25-F of the Act, the Petitioner has been retrenched from service and as such it is illegal and the Petitioner is entitled for reinstatement with back wages. It is well settled that all retrenchment is termination of service may not be retrenchment. In order to be retrenchment, the termination of service has to fall within the ambit of the definition of 'retrenchment' in Section 2(oo) of the Act. Further more, Section 25-F prescribes the requirements of notice and compensation as conditions precedent to the retrenchment of workman. Termination of service of a workman as a measure of retrenchment without complying with the mandatory requirements of law under Section 25-F will be illegal. It is also well settled that the burden of proof to establish that the termination of service of a workman is "retrenchment" is on the person putting forward the claim. In other words where the employee claims that he has been retrenched, he must prove that he was retrenched from service and that it is not for the employer to prove that discharge of the termination of the service of the employee was otherwise than by way of retrenchment. In discharge of that burden, in the instant case, the petitioner got himself examined as W.W1. It is in his evidence that he worked as Short Duty Telephone Operator in the Respondent office from 13-12-1980 to 6-9-1981 and that without any reason, he has been discharged from service without giving any notice or paying any compensation in lieu of notice or retrenchment compensation. It is also well settled that discharged simpliciter does not amount to "retrenchment". Further if the termination is actuated by motive of victimisation or unfair labour practice, it amounts to retrenchment. Hence we have to see whether the discharge of the petitioner with effect from 6-9-1981 amounts to "retrenchment" as defined under Section 2(oo) of the Act. As earlier stated Ex. W3 is the letter dt. 12-12-1980 selecting the petitioner and 9 others, as Short Duty Telephone Operators. As seen from this letter the petitioner and other selected candidates were informed that it is not a regular employment that they will not have any special claim for absorption into the department as regular telephone operators and their

services are likely to be terminated as soon as regular Telephone Operators are available or as soon as S.D.T.Os from 'B' list are posted by the Divisional Engineer Telecom, Tirupathi. It is further mentioned in the letter Ex. W3, that the appointing authority i.e. Sub-Divisional Officer, Telecommunications, reserve the right to discontinue the service of any of the candidates without assigning any reason therefor. Obviously accepting for these terms only the petitioner had joined service as Short Duty Telephone Operator on 13-12-1980. As seen from the averments in the counter filed on behalf of the Respondent, the Petitioner and other candidates were appointed as Short-Duty Telephone Operators purely on casual basis to tide over the absenteeism of regular Telephone Operators at Chittoor Telephone Exchange and as soon as the attendance of the regular Telephone Operators was improved there was no need for the services of the petitioner and as such the petitioner was disengaged without any notice. The Petitioner examined as W.W.1 also admitted this fact in cross examination. In his cross examination W.W.1 stated thus "It is true that there was shortage of regular Operators and also there was absenteeism and as such I was employed at that time. My name was not sponsored by the Employment Exchange for my employment in the Respondent-Department It is true that in the selection order, it was made clear that my employment is a provisional one and that I am not eligible for absorption into the department I do not know whether the absenteeism was improved subsequently and regular Telephone Operators were attending regularly and no necessity arose for my employment." Thus it is clear that the petitioner was appointed to tide over the difficulty of absenteeism of regular Telephone Operators. The petitioner also admits in his cross examination that in the beginning itself he was informed that it is a casual employment and that it is not a permanent job. He also admits it was a part time job for him. In his examination in chief itself W.W.1 has stated that a regular Telephone Operator has to work for 7 hours 20 minutes a day and Short Duty Telephone Operators at Chittoor including himself were given six hours duty in a day at the rate of 3 hours in the forenoon and 3 hours in the afternoon. Thus the petitioner himself admits that he was engaged for six hours duty in a day while the Regular Telephone Operators were given the duty for 7 hours 20 minutes a day. Thus it is clear from the appointment order Ex. W3 and the statement of the petitioner himself as W.W.1, that the petitioner was appointed on casual basis to tide over the absenteeism of the regular Telephone Operators and it is a part time job for the petitioner and that he was not sponsored by the Employment Exchange for his employment

in the Respondent and the petitioner was not employed on regular basis. He has been disengaged as the attendance of the regular Telephone Operators was improved. Therefore the discharge of the Petitioner is a discharge simpliciter. It cannot be said that it has been motivated by any vindictiveness or due to unfair labour practice on the part of the Respondent. The Petitioner cannot be continued in service if the regular telephone operators attend to their duties in the office.

8. The claim of the petitioner for reinstatement has also become stale. Admittedly, the petitioner was discharged on 6-9-1981 and he admits that he made a representation to the Chief General Manager, Telecom in August 1991 for reinstatement. Thus for a period of more than one decade the petitioner slept over the matter before he raised the dispute for reinstatement. No explanation is forthcoming for such abnormal delay in raising the dispute. To the end of his cross examination, the petitioner admits thus "It is true that I have not made any efforts for my employment in the Telephone Department for a period of 10 years continuously". Therefore, the claim of the petitioner for reinstatement after such a long time cannot be sustained.

9. The learned counsel for the petitioner submits that in a similar case filed by one C. Ramamurthy in I.D. No. 29 of 1988 against the Divisional Engineer, Telecom Bheemavaram, West Godavari District, this Tribunal upheld the demand of the workman therein for absorption on regular basis either as Telephone Operator or as Telephone Office Assistant and the said orders of this Tribunal were upheld by the Central Administrative Tribunal, Hyderabad in O.A. No. 927/91 and this petitioner is also entitled for similar treatment and for similar benefits in as much as his case stands on an identical footing. This argument of the learned counsel for the petitioner cannot be sustained for the reason that simply because this Tribunal upheld the demand of the workman in I.D. No. 29 of 1988, the petitioner is also entitled for the same relief. The Award in I.D. No. 29 of 1988 and the order of the Central Administrative Tribunal in C.A. No. 927/91 referred by the learned counsel for the petitioner are not produced before this Tribunal. It is not known under what circumstances the claim of the workman C. Ramamurthy was allowed in I.D. No. 29/88. We are not aware of the facts in that case. The claim of the petitioner herein is a speculative one.

10. There is also suppression of facts by the Petitioner in this case. The petitioner in his application dated 21-8-1991 Ex. W4 submitted to the Chief General Manager, Telecom, Hyderabad sought for reinstatement as regular telephone operator.

rator with all attendant benefits as if he is out of services from the date of discharge i.e. 6-9-1981. Even in his claim statement also, the petitioner specifically pleaded for reinstatement with back wages, with all attendant benefits as if he is out of service from the date of discharge. In his evidence as W.W1 the petitioner admits in his examination in chief itself, that he has been profitably employed in Judicial service. W.W1 stated thus "I am working initially as Attender in the Principal District Mansif Court, Punganoor w.e.f. 3-4-1985. I was promoted as Examiner of Copies on 2-1-1988. Later I became Junior Assistant on 1-4-1991". In his cross examination, W.W1 deposed on this aspect thus "I got employed in 1985 and I am working from 1985 onwards. I have not mentioned in my representation to the Assistant Labour Commissioner that I got a job in 1985 itself. Even in the claim statement which is filed in this Tribunal also I have not mentioned my employment from 1985 onwards." Thus petitioner has suppressed the factum of his employment in the Judiciary right from 1985 onwards. Thus the petitioner has not come up with clean hands.

11. The learned counsel for the Petitioner submits that no evidence has been adduced on behalf of the Respondent who remained *ex parte* at the time of trial and thus there is no rebuttal evidence on behalf of the Respondent. It is true that after cross examining the petitioner, the matter was posted for the evidence of the Respondent, and at that time the Respondent remained *ex parte*. But as earlier stated, the burden lies on the petitioner to establish that his termination is "retrenchment" under the definition of Section 2(00) of the I.D. Act. Considering the evidence on record, I am of the opinion that the Petitioner failed to discharge that burden and he failed to prove that his termination comes within the definition of 'retrenchment' under Section 2(00) of the I.D. Act. His termination is discharge *simpliciter*.

12. In the light of my above discussion, I have no hesitation to conclude that the discharge of the petitioner is only discharge *simpliciter* and it is not actuated by any motive of vindictiveness or unfair labour practice and therefore, the termination of the petitioner does not come within the definition of 'retrenchment' under Section 2(00) of the Act. The Respondent need not comply with the statutory requirements under Section 25-F of the Act as the termination of the petition is not a retrenchment. Hence I hold on the point that the action of the Respondent Sub-Divisional Officer, Telecom, Chittoor in terminating the services of the Petitioner S. N. Dandapani w.e.f. 6-9-1981 is justified. This point is thus decided in favour of the Respondent and against the petitioner.

13. POINT 2.—This point relates to the relief to be granted to the Petitioner. In view of my find-

ings on Point 1, the petitioner is not entitled for any relief in this reference.

14. In the result, Award is passed stating that the action of the Respondent-Sub-Divisional Officer, Telecom, Chittoor in terminating the services of the petitioner S. N. Dandapani w.e.f. 6-9-1981 is justified and the petitioner is not entitled for any relief. The reference is thus answered. The parties are directed to bear their costs.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this 18th day of July, 1995.

A. HANUMANTHU, Industrial Tribunal-I. Appendix of Evidence

Witnesses Examined for
the Petitioner :

W.W1 S.N. Dandapani Witnesses Examined for
the Respondent :

NIL

Documents marked for the Petitioner :

- Ex. W1 16-9-81 Certificate issued to S. N. Dandapani regarding the working particulars from 13-12-1980 to 6th September, 1981.
- Ex. W2 28-11-81 Training given to W.W1 for the period from 24-11-1980 to 8-12-1980.
- Ex. W3 12-12-1980 Order regarding recruitment of Short Duty Telephone Operators issued by S.D.C.T. Chittoor.
- Ex. W4 21-8-1991 Xerox Copy of the representation submitted to the Chief General Manager, Telecom, Hyderabad.
- Ex. W5 Written comments submitted to the Asst. Labour Commissioner, Vijayawada by the Telecom Manager, Tirupathi.
- Ex. W6 8-1-1991 Minutes of conciliation proceedings.

Documents marked for the Respondent-Management.

NIL

सई विल्ली, 12 अक्टूबर, 1995

का.आ. 2023— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ सी आई के प्रबन्धन के संबंध नियोजकों और

उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-95 को प्राप्त हुआ था।

[सं. एन-22012/269/एफ/90-आई आर (सी-II)]
राजा लाल, डेस्क अधिकारी

New Delhi, the 12th October, 1995

S.O. 2923.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of F.C.I. and their workmen, which was received by the Central Government on 9-10-1995.

[No. L-22012/269/F/90-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 251 of 1990

PARTIES :

Employers in relation to the management of Food Corporation of India, Patna.

AND

Their Workmen.

PRESENT :

Shri P. K. Sinha, Presiding Officer.

APPEARANCES :

For the Employers.—Shri B. Joshi, Advocate.

For the Workmen.—Shri D. K. Verma, Advocate.

Dated, the 27th September, 1995

AWARD

By Order No. L-22012(269)F/90-IR(Coal-II), dated, the 22nd October, 1990, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Food Corporation of India in terminating the service of Shri Bhupal Tiwari without any notice although he worked from June, 1980 to November, 1985 is justified? If not, to what relief the workman is entitled?”

2. This reference case was already placed for hearing of arguments. But Sri D. K. Verma, learned 2522 GI/95—8

Counsel for the workman submitted on 26-9-1995 that the workman was willing to settle the matter by accepting offer of the management in Para 12 of its written statement. A petition had been filed on behalf of the concerned workman stating therein that in Para 11 of its written statement the management had admitted that the concerned workman had worked from July, 1980 to October, 1985 as casual worker. Similarly, in Para 12 of the written statement the management had submitted that it had no objection in providing employment to the concerned workman as casual worker. It further had been pleaded in this application that the concerned workman was ready to join the Food Corporation of India as casual worker. A prayer has been made to direct the management to provide employment to the concerned workman as casual worker.

3. It is true that in Paras 11 and 12 of the written statement of the management submissions have been made as submitted by Shri Verma. To make the matter further clear, it has been mentioned in Para 12 of the written statement that the management was ready to provide the workman his usual job as and when available without guaranteeing him regular job as the same may not be available throughout the year.

4. Shri Joshi, the learned Counsel of the management submitted that if the workman was ready to join again as casual worker, the management was even to-day ready to engage him as casual worker and take work from him in the same manner the management had been taking during the period he was last employed.

5. Since both the sides are agreed on this point, I think it proper to render an award in these terms. However, I make it clear that this is not an award on merit of the case and on the basis of other materials brought on the record by both the sides but on the understanding between the parties as stated above.

6. Following, therefore, is the award—

As contended in Para 12 of the written statement of the management and as agreed to by the learned Counsel for the management, the management is directed to employ the concerned workman as casual worker and to provide him work as it used to provide him during the period of his previous engagement. It is agreed that the concerned workman should be so employed within a period of one month from the date of this order. The management will also consider regularisation of concerned workman in service in future, in accordance with Rules and the Law.

Under the circumstances of the case, there will be no order as to the cost.

P. K. SINHA, Presiding Officer.

नई दिल्ली, 12 अक्टूबर, 1995

का.ग्रा. 2924.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में, औद्योगिक अधिकरण, विनाखपत्तनम के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-10-95 को प्राप्त हुआ था।

[संख्या एन-12012/62/92-आई. आर. (बी. -2)]
बी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 12th October, 1995

S.O. 2924.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workmen, which was received by the Central Government on 11-10-1995.

[No. L-12012/62/92-IR(B.II)]
V. K. SHARMA, Desk Officer.

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, VISAKHAPATNAM

PRESENT :

Smt. G. Jaishree, B.Sc., LL.M., Chairman & Presiding Officer.

Wednesday, the 27th day of September, 1995

I.T.I.D. No. 18/92(c)

BETWEEN

Shri Chenna Venkata Ramana,
Ex-Dadlec Sepoy,
S/o. Ramaswamy,
Door No. 20-57-22, 2
Relli Veedhi Town,
Mrs. A. V. N. College Road,
Visakhapatnam-I —Workman

AND

The Chief Manager,
Bank of India,
Main Branch,
Kotha Road,
Visakhapatnam-I —Management

This petition is coming for hearing before me in the presence of Sri B. Chitti Babu, advocate for workman and Sri C. Srirama Murthy, advocate for management but on perusing the memo filed by the petitioner, the court passed the following :

AWARD

Management and counsel absent. Workman absent. Memo filed by workman counsel that the petitioner attained alternative employment and he is not pressing the petition. Hence I.T.I.D. is dismissed as not pressed and Nil award is passed.

Given under my hand and seal of the court this the 27th day of September, 1995.

G. JAISHREE, Chairman and Presiding Officer.
नई दिल्ली, 12 अक्टूबर, 1995

का.आ. 2925 — औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्र के अर्थमंत्र के पंचपट निरोधकों और उनके

कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में, औद्योगिक अधिकरण, मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-10-95 को प्राप्त हुआ था।

[संख्या एन-12012/419/91-आई. आर. (बी. 2)]
बी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 12th October, 1995

S.O. 2925.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workmen, which was received by the Central Government on 11-10-1995.

[No. L-12012/419/91-IR (B. II)]
V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,
TAMIL NADU, MADRAS

Tuesday, the 19th day of September, 1995

PRESENT :

THIRU N. SUBRAMANIAN, B.A.B.L.,
INDUSTRIAL TRIBUNAL

INDUSTRIAL DISPUTE NO. 33/1992

(In the matter of dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the Workman and the Management of Canara Bank, Bangalore).

BETWEEN :

Shri N. Krishnamurthy,
C/o. Shri G. Rajaram,
Canara Bank Employees Union,
42-B, South Masi Street,
Madurai-625 001.

AND

The General Manager,
Canara Bank,
I. R. Section,
H.O. Bangalore-560 002.

REFERENCE :

Order No. L-12012/419/91/IR(B. II), dated 25-3-1992, Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final hearing on Thursday, the 31st day of August, 1995 upon perusing the reference, Claim and Counter statements and all other material papers on record and upon hearing the arguments of Thiru Balan Haridas, for Tvl. Row & Reddy & S. Vaidyanathan, Advocates appearing for the Workman and of Tvl. T. S. Gopalan, P. Ibrahim Kalifulla and S. Ravindran, Advocates appearing for the Management, and this dispute having stood over till this day, for consideration, this Tribunal made the following :

AWARD

The Government of India, by its Order No. L-12012/419/91-IR (B. II), dated 25-3-1992, referred for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 regarding the dispute :

"Whether the termination of services of Shri N. Krishnamurthy, Clerk by the Management of Canara Bank is justified ? If not, to what relief the workman is entitled to ?"

2. The case of the petitioner is as follows :

The petitioner was employed as a Clerk in 1984. In 1987 he was working as a Clerk at Uthamapalayam branch. In November, 1987 he was assigned the duties of cashier. On 26-11-1987 there was a cash shortage of Rs. 50,000/-. It was reported after he had only handed over the cash of Rs. 2,97,000/- to the Officers of the Currency Chest who came from Madurai. He was charged for misappropriation of the amount. The bank gave a police complaint on 26-11-1987. The petitioner was kept under Police custody for 3 days. He was forced to make good the amount. His father-in-law borrowed money and made good the amount. There was no loss to the bank. The matter was investigated by Police in Crime No. 416/82 u/s. 409 of I. P. C. The Judicial Magistrate, Uthamapalayam, by his order dated 16-12-1988 acquitted the petitioner by recording it as a Mistake of Fact. In spite of petitioner acquitted by Judicial Magistrate, the bank initiated disciplinary proceedings. Charge memo was issued after 2 years on 31-1-1989. The bank conducted a domestic enquiry by an Officer of the bank. He was not a disciplinary authority. The Disciplinary Authority was the Deputy General Manager. The Enquiry Officer without adverting to the crucial evidence proceeded on the assumption that the cash was handed over to the Madurai Currency Chest Staff was only Rs. 2,47,000/-. He also recommended that the petitioner be dismissed from service. Acting on the recommendation of the Enquiry Officer, Disciplinary Authority issued a Second Show Cause Notice as to why he should not be dismissed from service. Before coming to this conclusion, he called for the petitioner's representation. The petitioner gave a reply on 24-11-1989. Without considering any of his submissions, the Disciplinary Authority issued order dismissing the petitioner on 20-3-1990. Against the dismissal order, the petitioner filed departmental appeal to the committee of General Managers. It was rejected on 25-9-1990. Therefore, the petitioner raised an Industrial Dispute. Conciliation proceedings failed and the failure report was submitted on 25-10-1991. The circumstances under which the cash shortage occurred, are briefly as follows :

3. The Uthamapalayam branch is a small branch. It is not expected to have more than Rs. 75,000/- cash at any date. The maintenance of cash is the joint responsibility of both the Accountant and Cashier. Twice a week, the Currency Chest, Officials from Madurai used to come and collect the excess cash. On 26-11-1987, when the Currency Chest staff came from Madurai, the petitioner handed over Rs. 2.97 lakhs. He prepared an oral slip ME-3 mentioning the total as Rs. 2.97 lakhs. Based on ME-3, Jayakumar MW-3, prepared debit slip ME-2 for Rs. 2.97 lakhs. Jaikumar also prepared the receipt ME-4 to be given to the Madurai Currency

Chest Staff. In that admittedly a sum of Rs. 50,000/- was omitted to be mentioned by Jaikumar which was later added by the Manager. Actually the amount omitted was not only Rs. 50,000/- but Rs. 1.00 lakh. Since the petitioner had physically handed over Rs. 2.97 lakhs, Currency Chest Staff collected the cash and left the branch. The petitioner left the office at 5.00 p.m. Around 8.00 p.m. in the night he was called to the branch and questioned about the shortage of Rs. 50,000/-. He gave a statement Ex. M. 19 on 27-11-1987. The bank gave a complaint to the Police. Officers of the bank tried to shift the responsibility on the petitioner as otherwise they will have to take a share of responsibility for the loss. The petitioner was kept in the Police Custody for 3 days. In the domestic enquiry, the bank marked a xerox copy of Kshema Nidhi Receipt in the name of N. Kannan for Rs. 50,000/- and tried to relate this so called deposit receipt to the amount alleged to have been misappropriated by the petitioner. No official from the bank was examined and the original receipt was not produced. They very first complaint given by the Accountant to the Manager, Ex. M. 1, there was only a mention of shortage of cash and not any misappropriation. In Ex. M. 2, the debit slip prepared by Jaikumar there is admittedly an alteration from 2,97,000/- to 2,47,000/-. In Ex. M. 5, the duplicate receipt of Ex. M. 2, the accountant admitted that he did the alteration. In Ex. M. 4, the Manager admits that he added a sum of Rs. 50,000/- which was originally omitted. MW. 3, Jaikumar, has stated that the petitioner had given another slip which was not seen the light of the day. Based on the findings and the recommendation of the Enquiry Officer, the petitioner was illegally and unjustifiably dismissed. The domestic enquiry conducted by the Management is highly defective. The Enquiry Officer should not have admitted the xerox copy of the so-called certificate Ex. M. 9 and original was not produced. The Disciplinary Authority can only delegate the holding of the Enquiry to an Officer. The Enquiry Officer cannot recommend the punishment and the Disciplinary Authority cannot be influenced by such recommendation. Clause 10 of the Service Regulations, which states that the "recommendation of punishment by the Enquiry Officer is in excess of the powers that can be delegated to the Enquiry Officer. Since the Enquiry Officer has recommended the punishment and the Disciplinary Authority had been influenced by it, it is bad in law. Before proposing to impose the punishment of dismissal, disciplinary authority should have given the petitioner a copy of the findings of the Enquiry Officer. The procedure followed by the Disciplinary Authority in proposing to impose the punishment of dismissal even before knowing the views of the workman is contrary to the principles of natural justice. Even under Clause 11 of the Service Code, past record of the employee has to be taken into account. In this case, neither of these facts were taken into account. The Disciplinary Authority has not considered the past record of service of the petitioner. The Bank did not lose anything whereas the petitioner lost Rs. 50,000/-. Even on merits, the charge has not been established at all. Without prejudice to the above contents, the petitioner submits that in the case of Lakshmi Suguna, Clerk Oppana-

kara Street, Coimbatore, she was charge sheeted for negligence for a cash shortage of Rs. 50,000/- and punishment of stoppage of four increments with cumulative effect was only imposed. The case of P. Yanjnnath, Arupukot'ai Branch, he was charge sheeted for cash shortage of Rs. 20,000/-. He was imposed punishment of stoppage of two increments. Hence the order of dismissal is arbitrary and discriminatory. In any event the punishment of dismissal is totally disproportionate to the alleged misconduct. The petitioner is a young man aged about 37 years. Hence the Hon'ble Court may be pleased to hold dismissal as illegal, unjust and contrary to law and set aside the same and reinstate the petitioner with backwages, continuity of service and other attendant benefits.

4. The respondent filed his counter contending that the respondent is a Nationalised bank having branches throughout the Country. Every branch is required to maintain only a specified amount of cash and excess would be remitted to Currency Chest. The Van attached to the Currency Chest will visit branches and collect the excess cash. For making cash remittance, to the Currency Chest, the cashier will prepare a rough slip mentioning the denominations of about to be remitted on the basis of which the Clerk incharge of preparation of instruments will prepare a debit slip as well as a Branch Advice Requisition form, BAR and will simultaneously make an entry in the Branch Adjustment Account Register. When the Branch opens in the morning, before commencement of the business, the two keyholders who are normally Officers will open the double lock and take out the cash required for the day and hand over to the cashier. The cashier also maintains a shroff book in which he will make entries of the payment made from the debit slips handed over to him. After the close of business the receipts and payments will be reconciled. Cash payments made during the day are called as Payment Waste. On 26-11-1987, while the petitioner was working as a shroff the staff members of the Currency chest Madurai came to the branch for receiving cash. The petitioner prepared a rough slip mentioning the amount of remittance as Rs. 2.47 lakhs and denomination particulars. On the basis of the rough slip, Jaikumar who was on that day incharge of writing instruments prepared debit slip Rs. 2,47,000/-. The petitioner who was in the custody of cash, put the Seal deliberately affixed the stamp on the amount of remittance written in figure, in the debit slip and put his signature. When the cash was handed over to the staff members of the Currency Chest, they found a sum of Rs. 50,000/- in 10/- denominations had not been mentioned in the BAR. As per the denomination mentioned in the BAR the total amount should be Rs. 1,97,000/-. Armed Guard K. Guruswamy approached the petitioner in the dining hall and requested him to add the figure of Rs. 10/- denomination. He replied that change in the books should be done only by the Manager, or Officer and he had no authority to do so. When the Branch Manager returned after lunch, Shri Samayagopal approached the Branch Manager and informed him that ten rupee notes amounting to Rs. 50,000/- had been omitted to be mentioned in the BAR. The Branch Manager included the figure of Rs. 50,000/- in the ten rupee denominations in the BAR. After the closing of account in the afternoon, Shri K. Ponnudass. Special Assis-

tant was checking the Payment Waste written by petitioner with the debit slips, found out a difference of Rs. 50,000/-. The debit slip for the cash remittance to the Currency Chest showed a figure of Rs. 2.47 lakhs while the petitioner had made an entry in the payment waste as Rs. 2,97,000/-. He reported the matter to the Officer K. P. Dharmaraj. When Dharmaraj questioned the petitioner he replied that correction was done by Manager himself in the BAR as Rs. 2,97,000/- instead of Rs. 2,47,000/-. At that time the Branch Manager was away on duty. When the Manager returned at about 5.00 p.m. and was asked about the alteration, he told that he had not altered the amount in BAR, and he has only included the denomination of Rs. 10/- to the tune of Rs. 50,000. The Branch Manager contacted the Currency Chest who told the amount of remittance is only Rs. 2.47 lakhs. The Branch Manager and the other staff searched the drawer of the cashier and retrieved rough slip in which the petitioner had written a figure of Rs. 2.47 lakhs, with the particulars of denominations. That slip tallied with remittance. The Branch Manager and he Clerk Sivakumar proceeded to Cumbum and traced the petitioner in a cinema theatre. When the petitioner was brought to the branch, the rough slip was shown to the petitioner. He attempted to destroy the same but due to the timely intervention the same was avoided. On 28-11-1987, a complaint about the shortage of cash was made to the Police. On 2-12-1987, the petitioner was placed under suspension, pending initiation of the Enquiry. The Police lodged F.I.R. in the Magistrate Court Uthamapalayam. Further investigation show that the petitioner had handed over a sum of Rs. 50,000/- to his brother Kannan, who in turn deposited the entire amount in Kshema Nidhi Cash Certificate in Corporation Bank, Namakkal for 2 years. On 3-1-1989 a charge sheet was issued to the petitioner. In the domestic enquiry, 11 witnesses were examined. Enquiry Officer gave his report holding that the petitioner had misappropriated a sum of Rs. 50,000/-. Misconduct being grave in nature, touching upon his honesty and integrity, proposed the punishment of dismissal. The petitioner was asked to appear before him for a personal hearing to show cause against the proposed punishment. The petitioner appeared for hearing. After hearing his explanation, the Enquiry Officer recommended the punishment of dismissal. The shortage of cash was caused by the misappropriation of the said amount by the petitioner. The Order of the Criminal Court was not a judgement on merit. The Disciplinary Authority namely the Deputy General Manager, appointed Shri Balasubramaniam, Manager, Circle Office, Madurai as Enquiry Officer. The Disciplinary Authority is entitled to appoint an Enquiry Officer to conduct the Enquiry. The Enquiry Officer is empowered to forward his findings to charge sheeted employee and give a hearing on the proposed punishment. He is also empowered to consider the representation of the charge sheeted employee regarding the proposed punishment, and make his recommendation about the punishment to the Disciplinary Authority. There is no provision in the Canara Bank Service Code that the charge sheeted employee should be given an opportunity for a personal hearing against the proposed

punishment. The Appellate Authority has passed a speaking order after giving petitioner personal hearing. The debit slip for cash remittance was prepared by Jaikumar on the basis of the rough slip made out by the petitioner. It is denied that petitioner had physically handed over Rs. 2.97 lakhs to the Currency Chest Staff. The admission of photo copy of Kshema Nidhi Receipt as evidence cannot be faulted. The Presenting Officer also placed the correspondence exchanged with the Corporation Bank to secure the presence of their Officers but the Corporation Bank failed to respond. The petitioner was given due opportunity to verify the genuineness of the receipt. The order of dismissal is perfectly justified as the guilt of the petitioner is established by a cogent evidence in the enquiry. The Canara Bank Service Code does not contemplate that a charge sheeted employee should be given an opportunity to show cause against the finding. Since the act of misconduct proved against the petitioner was so serious the past record of service would have little impact in taking a decision about the dismissal. In the course of Police investigation it came to light that petitioner misappropriated the amount and handed it over to his brother Kannan who in turn deposited the same with Corporation Bank, Namakkal. The petitioner's reference to the punishment awarded to Manjunath and others is misleading, as they were charge sheeted for shortage of cash and not for misappropriation. Hence the Court may dismiss the claim of the petitioner.

5. By consent, Exs. W-1 to W-14/S were marked. The arguments of both counsels were heard.

6. The point for consideration is : "Whether the termination of the service of Shri N. Krishnamoorthy, Clerk by the Management of Canara Bank is justified? If not, to what relief the workman is entitled to?"

7. The case of the Management in short is as follows :

The petitioner workman was employed in Uthamapalayam branch. On 26-11-1987, he was working as a cashier. Every branch is required to maintain only a specified amount of cash and the excess should be remitted to the Currency Chest. On 26-11-1987, the Currency Chest Staff from Madurai came and collected as per the denomination slip prepared by petitioner a sum of Rs. 2,47,000/-. The petitioner entered in the Payment Voucher remittance to the Currency Chest as Rs. 2,97,000/-. On the closing of the business, cash was verified by K. Poudar, a Special Assistant and found the difference of Rs. 50,000/-. Between the entry in the Payment Voucher and the voucher for the remittance to the Currency Chest. It was informed to the petitioner. Thereafter complaint was given to the Police and the Police registered a case and investigated. In the investigation it was found that the petitioner had handed over Rs. 50,000/- to his brother Thiru Kannan, on 26-11-1987, who in turn deposited the same in Kshema Nidhi Cash Certificate on 30-11-1987 with Corporation Bank, Namakkal for a period of 2 years. Thereafter a charge memo was given to the petitioner and domestic enquiry was conducted. Enquiry Officer found the petitioner

guilty of the charges of misappropriation. The petitioner was asked to appear for a personal hearing to show cause against the proposed punishment of dismissal. The petitioner appeared for personal hearing. After hearing his explanation, Enquiry Officer recommended punishment of dismissal to the Disciplinary Authority. Disciplinary Authority also gave a personal hearing to the petitioner. Thereafter after considering all the relevant facts and the past record of the petitioner, dismissed him from service.

8. The petitioner's counsel raised objection that the dismissal order passed by the Disciplinary Authority is not in accordance with the Rules of the Bipartite Settlement, and the Enquiry Officer recommending the punishment is beyond his power. The Disciplinary Authority accepting the recommendation of the Enquiry Officer in imposing the punishment is violative of principles of natural justice. The Enquiry Officer issued a notice to the petitioner under Ex. W-5 enclosing the findings and proposed the punishment of dismissal. He also requested the petitioner to come for a personal hearing regarding the punishment. The petitioner filed his written submissions Ex. W-7. The Enquiry Officer after considering the written submissions and oral representations made by the petitioner submitted his report, to the Disciplinary Authority recommending the punishment of dismissal. The Disciplinary Authority also gave a personal hearing to the petitioner and thereafter issued the dismissal order Ex. W-8. It is contended by the petitioner's counsel the Disciplinary Authority can also delegate his power only to hold an enquiry i.e. to regard the evidence of the parties and to submit the same. He is not empowered either to give his opinion whether the charge is proved or not, particularly he is not competent to recommend any punishment to the workman in his report. Giving findings and recommending the punishment by the Enquiry Officer is in excess of his powers. The Disciplinary Authority accepting the findings and recommendations of the Enquiry Officer in imposing the punishment is not proper and it is against the principles of natural justice. For that he relied on a decision reported in 1991 3 ACC P 219. The facts of the case cited above is different from the facts of the present case. The decision cited by the learned counsel for the petitioner will not apply to the present case. The facts of the case cited in the above decision is that the enquiry was conducted by the Vigilance Committee. The Disciplinary Authority after receipt of the reports from the Vigilance Committee, consulted and got recommendations regarding the punishment to be imposed to the workman. The Supreme Court has held that power of punishing authorities in departmental proceedings is regulated by statutory regulations. It is quasi-judicial power and it is unrestricted. But it has been completely shattered by the direction issued by Ministry of Finance. The bank has been told that the punishment recommended by the Central Vigilance Commission in every case should be strictly adhered to and not to be altered without prior concurrence of the Central Vigilance Commission and Ministry of Finance. Under the regulations, the bank's consultation with the Central Vigilance Commission in every case is not a mandatory. Even if the bank has made a self-imposed rule, to consult

the Central Vigilance Commission in every disciplinary matter, it does not make Commission's advice binding on the punishing authority. The Ministry of Finance, Govt. of India, has no jurisdiction to issue the impugned direction to banking institutions. Therefore, the Supreme Court has held that the punishment imposed by the Disciplinary Authority on the recommendations made by the Central Vigilance Commission as illegal. In the present case, there is no Vigilance Commission enquiry against the petitioner. The recommendations made by the Enquiry Officer is not at all binding on the Disciplinary Authority or the Appellate Authority. It is seen from the order passed against the petitioner by the Disciplinary Authority that he has accepted the findings and punishment recommended without any further enquiry in the matter. After receipt of the report from the Enquiry Officer and his recommendations the Disciplinary Authority has given a personal hearing to the petitioner and passed the dismissal order Ex. W-8. The Appellate Authority also discussed the various points raised by the petitioner in Appellate Order Ex. W-10. So, both the Disciplinary Authority and the Appellate Authority did not pass the punishment order without applying their mind to the facts of the case and merely accepting the recommendations of the Enquiry Officer. Therefore, the order passed by the Disciplinary Authority as well as Appellate Authority are proper and there is no violation of the principles of natural justice.

9. The petitioner's counsel raised a second objection that there is no sufficient evidence to prove the charge of misappropriation for Rs. 50,000 by the petitioner. It is admitted fact that on 26-11-87 the petitioner was working as Cashier in Uthamapalayam branch. He handed over to the Currency Chest Staff a sum of Rs. 2,47,000. Before handing over the cash, he prepared a rough slip of denomination mentioning the various denominations and the total amount. The denomination slip prepared by the petitioner was marked as ME3 in the enquiry. As per the denomination noted in ME3, the total amount comes to Rs. 2,47,000 alone. But in the total it has been written as 2,97,000 and subsequently as 2.47 lakhs. It is admitted by the petitioner in his evidence but denied that he has not made the correction. Even taking that correction was not made by him, in the figure of total as per the denomination noted above by the petitioner, it comes to Rs. 2.47 lakhs alone. So, the correction in the amount of total figure will not make much. Suppose if there is any scoring in the denomination noted by the petitioner in Ex. ME3, then the correction and the scoring out will make much about the case of the Management basing on Ex. ME3. The Clerk Jaikumar who was examined as MW3 prepared ME4 the debit voucher and ME2, the BAR for the remittance of the cash to the Currency Chest. In ME4, there is omission to mention ten rupee denominations. In ME2 the amount in words are written as Rs. 2,47,000 and in figure Rs. 2,97,000 originally and subsequently it was corrected. The seal of the bank was affixed on the total figure so as to deface the correction. If the amount in words in Ex. ME2 was written as Rs. 2,97,000 and then it is corrected, we can say that the corrections were made subsequently with mala fide intention. According to MW3, he prepared ME2 and 4 on the basis of the rough deno-

mination slip given by the petitioner. According to him the petitioner gave one rough slip originally. After preparing ME2 and ME4, he took away the same and produced ME3. Since the original rough denomination slip there was no ten rupee denomination in Ex. ME4, there was omission to mention ten rupee denominations. Ten rupee denomination was subsequently written in ME4 by the Manager after the Currency Chest people reported that there was omission of ten rupee denominations. Even though the entry was made by Manager, the total figure including ten rupee denominations is only Rs. 2,47,000. Deface Exhibit 1 is a copy of the Bank adjustment Account Register. There the entry of cash remittance to the Currency Chest is noted as Rs. 2,47,000 alone. In Ex. M. 15, which was prepared by the petitioner viz., the Payment Weste the entry is Rs. 2,97,000. Only on verification of ME15 with ME2 and 4, the difference of Rs. 50,000 has been found out as a shortage at that time. That Rs. 5,000 was debited in the name of the petitioner and the account was closed. The Currency Chest people had stated that they have received Rs. 2,47,000 alone from the petitioner, and issued ME16. So, as per the denomination slip prepared by the petitioner, ME3, and ME4, and 2 only a sum of Rs. 2,47,000 as remitted to the Currency Chest, Madurai and from the entry in Ex. ME15 as Rs. 2,97,000 by the petitioner as the amount remitted to the Currency Chest, Madurai there is a shortage of Rs. 50,000. This shortage is clearly proved by the evidence.

10. The next question is whether the amount of Rs. 50,000 is a shortage or this amount has been misappropriated by the petitioner. According to the Management witness on the date of alleged occurrence the petitioner's brother Kannan came to the bank and to whom the petitioner handed over the money and he in turn deposited it in Kshema Nidhi Cash Certificate in Corporation Bank, Namakkal, on 30-11-87. Copy of the Kshema Nidhi Certificate is marked in the enquiry proceedings which was objected by the petitioner. ME-24 is the copy of the Kshema Nidhi Certificate in the name of Kannan. The petitioner repaid the amount of Rs. 50,000 to the bank by borrowing from his father-in-law and another. Ex. ME27 is the credit slip dated 1-12-87. It is argued by the petitioner's counsel that the original Kshema Nidhi Certificate was not produced before the enquiry. The xerox copy marked in the enquiry cannot be accepted. It was also objected at the time of marking. The enquiry officer has given his reasons for admitting the same. In spite of the repeated efforts taken by the Management, Corporation Bank, Namakkal did not produce the particulars of the deposit. The original certificate will be only with the depositor. It is argued by the petitioner that the Enquiry Officer's finding based on the copy of the Certificate produced in the enquiry is not valid. For that he relied on a decision reported in 1987 II LLJ P 404. There the Supreme Court has held that accepting the photocopies of the documents without any explanation for accepting the same without producing of original is not proper and reliance cannot be placed on the photocopies. In the case cited above, the delinquent worker misappropriated some amount by making alterations in the entries of the record. So, the Supreme Court has held that the production of the original

entry is necessary to find out alterations. In the present case, it is not the allegation that the petitioner made any embezzlement in the entry and thereby misappropriated the amount. Now the only objection raised by the petitioner's counsel is for the non-production of the Original Kshema Nidhi Cash Certificate. When the original is in the custody of the petitioner or his brother it is duty of the petitioner to produce the original through his brother to disprove that the xerox copy produced is not true copy. There is proper explanation given by the Enquiry Officer for the non-production of the original Kshema Nidhi Cash Certificate which was not in the custody of the Management. Further in this case, the petitioner did not deny that Kannan is not his brother. The petitioner who had been examined during the enquiry did not deny that his brother deposited Rs. 50,000 in Kshema Nidhi Cash Certificate with Corporation Bank, Namakkal. It is not the case that the petitioner and his brother are not in talking terms. There is no evidence even by the petitioner about the source of his brother for the sum of Rs. 50,000 which was deposited in the Corporation Bank. If really the amount deposited by his brother belongs to his brother who got the amount in different source he would have explained how his brother got this amount. Even in this Tribunal also the petitioner failed to examine atleast his brother to prove that amount of Rs. 50,000 deposited by him was got by some other source by his brother. Merely saying that the original certificate was not produced will not in any way disprove the case of the respondent that the petitioner misappropriated the amount and deposited same through his brother in his name in Corporation Bank, when it is proved by every evidence. Non-production of the original certificate will not in any way affect the case of misappropriation, by the petitioner when it is satisfactorily proved by other evidence. So, the findings of the Enquiry Officer is based on legal and substantial evidence adduced before the Enquiry by the Management.

11. Petitioner's counsel finally argued that the quantum of punishment viz., the dismissal from service is disproportionate and severe. The petitioner is a young man aged about 37 years. He belongs to Scheduled Caste community. He has got unblemished record of service prior to the incident. Further the alleged misappropriation amount of Rs. 50,000 has been remitted back to the bank and there is no financial loss to the bank. Further the Management has imposed lesser punishment in case of shortage of amount. So, the petitioner may be given a lesser punishment in case the Tribunal come to the conclusion that the charges against the petitioner are proved. The respondent's counsel argued that it is true in case of shortage of amount only a lesser punishment has been imposed by the Management. But this is a case where petitioner has misappropriated the amount with intention. It is a grave misconduct on the part of the petitioner. Bank is dealing with public money. So, the employees of the bank should be more honest and sincere. Considering the gravity of offence committed by the petitioner, the punishment of dismissal is the only proper punishment for the petitioner. As pointed out by the petitioner's counsel, since the petitioner remitted the amount, there is no financial loss to the bank. But misappropriation of the public money

is a grave misconduct on the part of the bank employee. Even then as per the decision reported in 1983 I LLJ P 261, "while imposing the punishment of dismissal or termination of service, the Management should consider the other circumstances of the case. As per the decision cited above, before imposing the severe punishment of dismissal, the Management should take into consideration, widespread unemployment in our Country and it is difficult to secure a job to earn enough to keep body and soul together unlike in developed countries. The State does not provide social benefits like unemployment allowance to enable a discharged employee to sustain himself and his family to some extent, as is being done in developed countries. The main purpose of punishment is to correct the fault of the employee concerned by making him more alert in the future. The employee concerned could have had to suffer economic misery and mental torture for all these years of unemployment. The petitioner had been unemployed for more than 3 years. If the petitioner is discharged or dismissed from service on the charge of misappropriation there is no chance for petitioner to secure any other employment in any place. It amounts to economic death of the petitioner. Mental torture and the suffering, himself and his family had undergone for all these years of unemployment amounts to serious punishment. Considering the various circumstances and situations in which the petitioner will be placed if he is dismissed from service, at his young age, punishment of dismissal of the petitioner is more severe.

In the result, an award is passed setting aside the order of dismissal of the petitioner and the respondent is directed to reinstate the petitioner in service without continuity of service and without back wages. Further the petitioner is awarded with a punishment of stoppage of 4 increments with cumulative effect. No costs.

Dated, this the 19th day of September, 1995.

THIRU N. SUBRAMANIAN, Industrial Tribunal
WITNESSES EXAMINED

For both sides : None

DOCUMENTS MARKED

For Workman :

- Ex. W-1|16-12-88 : Order of Judicial Magistrate in R.C.S. No. 171|88.
- W-2|26-11-87 : Statement of Workman.
- W-3|27-11-87 : Statement of Workman.
- W-4|3-1-89 : Charge sheet issued to the workman.
- W-5| : Proceedings of the Enquiry Officer.
- W-6|4-11-89 : Findings of the Enquiry Officer.
- W-7| : Written submissions of Workman.
- W-8|20-3-90 : Dismissal Order.
- W-9|20-4-90 : Appeal preferred by the Workman against the dismissal order.
- W-10|20-10-90 : Letter of the Deputy General Manager of the Respondent Bank, enclosing order of Appellate Authority.
- W-11|27-12-90 : Dispute raised by the Workman before the Regional Labour Commissioner (Central), Madras under Section 2-A of the I.D. Act (Xerox copy).

W-12 : Reply by the Respondent-Bank before the Regional Labour Commissioner (Central), Madras.

W-13/25-10-91 : Conciliation Failure Report.

W-14/Series : Documents filed by the Workman & Respondent Bank in the domestic enquiry.

For Management : Nil.

नई दिल्ली, 13 अक्टूबर, 1995

का.आ. 2926 ---औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै० डी. बी. सी. एंड सन्स (प्र.) लि. के प्रबंधन के संबद्ध नियोक्ताओं और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 1, दंडी के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-10-95 को प्राप्त हुआ था।

[संख्या एल-31012/4/91-आई.आर. (अधिध)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 13th October, 1995

S.O. 2926---In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal. No 1, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. D.B.C. and Sons (Pvt.) Ltd., and their workmen, which has received by the Central Government on the 11-10-1995.

[No. L-31012/4/91-IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1,

BOMBAY

PRESENT :

Shri Justice R. S. Verma, Presiding Officer.

MISC. APPLICATION NO. CGIT-8 OF 1995

(Arising out of Ref. No. CGIT-54 of 1991)

PARTIES :

M/s. D.B.C. Pvt. Ltd. ... Applicant
Bombay-400038.

Vs.

Shri S. S. Surajbin Singh. ... Opp. Party.

APPEARANCES :

For the Applicant : Sh P. N. Khare & Kantharia Advocates.

For the Opposite Party : Shri Gopalkrishnan, Advocate.

INDUSTRY : Port & Docks. STATE : Maharashtra.

Bombay, dated 28th September, 1995

AWARD

Government of India, Ministry of Labour has referred following dispute for adjudication under sec-

tion 10(1)(d) read with sub-section 2A of the Industrial Disputes Act, 1947.

"Whether the termination of service of Shri S. S. Surajbin Singh by the management of M/s. Darabshaw B. Cursetjee's Sons (Bombay) Pvt. with effect from 5-11-1990 is legal and justified? If not, to what relief the workman is entitled to?"

2. Statement of claim has been filed by the workman. He has been in the employment of M/s. Darabshaw B. Cursetjee's Sons (Bombay) Pvt. Ltd. here-in referred to as the workman and the employer respectively. The workman joined the employment of the Company on 1-4-1979. He states that on 30th April, 1990, put in an application for leave for 22 days. That was necessitated because of his wife's serious illness at his native place. He was permitted to go to his native place. It took some time for his wife to recover any by the time she recovered workman himself fell sick. During this spell his leave expired. Since there was no one in the workman's house to send a telegram to inform employer it was intimated a little later and medical certificate also sent.

3. The employer, however, while he was at his native place sent a charge-sheet-cum-notice of enquiry dated July 16, 1990. It came out with a case that the workman was remaining unauthorisedly absent right from 3-5-1990. He was charged with 'misconduct' under Clauses 17(1), 28 of the Standing Orders applicable to the organisation. The charges were 'wilful insubordination or disobedience of lawful and reasonable orders of the employer'. And secondly 'absence without leave'. The main charge was absence with effect from 3-5-1990.

4. An inquiry it appears came to be conducted in his absence and on the adverse report he came to be dismissed by the management. It is his order of dismissal that he is challenging.

5. The employer has filed written statement. According to the employer the workman was never sanctioned leave. He had no leave to his credit and the ground mentioned was not true. He was asked to come back but he did not do so. Misconduct therefore, committed by him was held proved in the departmental enquiry and on the basis of that his services came to be terminated because his past record was also not good.

6. The matter was heard ex-parte by my predecessor Hon'ble Justice R. G. Sindhakar who by an Award dated 16th day of December, 1994 found that the retrenchment of the workman was not justified. He consequently directed reinstatement with consequential benefits and backwages.

7. After the aforesaid Award was passed the management namely M/s. D.B.C. Pvt. Ltd., Bombay filed miscellaneous application No. 8 of 1995 for setting aside the Award and for restoring the proceedings to the original number. This application was heard by me on 27-9-1995 when the parties filed the joint settlement. The settlement was verified by me. As per the terms of settlement, award dated 16-12-1994 was set aside with the consent of both

the parties and the restoration application was allowed and reference was restored to the original number.

8. Since the parties have also settled the dispute finally by the Settlement dated 27-9-1995, the dispute is disposed off in terms of the said settlement which are as follows :

- (a) The Management shall reinstate the workman with effect from 4th October, 1995 with continuity of service and consequential benefits.
- (b) The management shall pay to the workman within two weeks from Today 50 per cent of Back Wages from the date of Termination till 31st December, 1994, and full wages on and from 1-1-1995.
- (c) The workman shall not claim remaining 50 per cent of Back Wages for from the date of Termination till 31-12-1994.
- (d) The parties shall file a copy of present Consent Terms in Contempt Petition No. 242 of 1995 pending before the Hon'ble High Court at Bombay. The opponent workman shall not press and/or pursue the said contempt petition.
- (e) The allegations contained in charge sheet dated 16th July, 1990, shall not constitute stigma against the opponent workman for the purpose of his service record.

3. The Award dated 16-12-1994 may be set aside by Consent of parties and the Reference C.G.I.T. No. 1/54 of 1991 may be disposed off in Terms of these Consent Terms.

9. In view of the above settlement, the management shall reinstate the workman w.e.f. 4th October, 1995 with continuity of service and consequential benefits. The management shall pay to the workman within two weeks from 27-9-1995 50 per cent of the back wages from the date of termination till 31st December, 1994 and full wages on and from 1-1-1995. The workman shall not claim remaining 50 per cent of the back wages from the date of termination till 31-12-1994. The allegations contained in chargesheet dated 16th July, 1990 shall not constitute stigma against the workman for the purposes of his service record. The proceedings are disposed accordingly and award is passed as stated above. The award be sent for the publication.

R. S. VERMA, Presiding Officer.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT BOMBAY.

MISC. APPLICATION NO. 8 OF 1995

IN

RELEVANT C. G. I. T. NO. 1/54 OF 1991

Darabshaw B. Cursetjee,
and Sons Pvt. Ltd.

... Applicant

V/s.

Sardar Singh Surajbin Singh ... Opponent.
MAY IT PLEASE YOUR HONOUR :—

1. In the above matter parties have settled the
2522 GI/95—9

issues in Reference (GIT No. 1/54 of 1991 out of Court).

2. The Terms of settlement are as follows :—

- (a) The Management shall reinstate the Workman with effect from 4th October, 1995 with continuity of service and consequential benefit.
- (b) The Management shall pay to the Workman within two weeks from Today 50 per cent of Back wages from the date of Termination till 31st December, 1994, and full wages on and from 1-1-1995.
- (c) The Workman shall not claim remaining 50 per cent of Back wages from the date of Termination till 31-12-94.
- (d) The parties shall file a copy of present Consent Terms in Contempt Petition No. 242 of 1995 pending before the Hon'ble High Court at Bombay. The opponent workman shall not press and/or pursue the said contempt Petition.
- (e) The allegations contained in charge sheet dated 16th July, 1990, shall not constitute stigma against the opponent workman for the purpose of his service record.

3. The Award dated 16-12-1994 may be set aside by Consent of parties and the Reference C. G. I. T. No. 1/54 of 1991 may be disposed off in Terms of these Consent Terms.

Bombay Dated this 27th day of September, 1995.

Sd/-
Prafulla Raghunath Khare
For Darabshaw B. Cursetjee
& Sons Pvt. Ltd.

Sd/-
Sardar Singh Suranbin
Singh (Workman)

Sd/-
V. H. Kanthani
Advocate for the Management.

Sd/-
(P. GOPALKRISHNAN)
Advocate for Workman.

27-9-95

Presented by Shri Prafulla Raghunath Khare and the advocate of management Shri V. H. Kanthani and Shri Sardar Singh & his advocate Shri P. Gopalkrishnan. Both the sides verify the contents of the settlement and admit execution thereof. Place on record.

Sd/-
(R. S. Verma)

Sd/-
(P. R. KHARE)

Sd/-
V. H. Kanthani
P. GOPALKRISHNAN, Advocate for workman
Sd/-
(Sardar Singh Surabin Singh)

नई दिल्ली, 13 अक्टूबर, 1995

का.आ. 2927.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माईन्स लि., येप्पामना माईन्स के प्रबंध-तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अधु-बंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदरा-बाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-10-95 को प्राप्त हुआ था।

[संख्या एन-43012/4/92-आई-आर (विविध)]

वी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 13th October. 1995

S.O. 2927.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the industrial dispute between the employees in relation to the management of Bharat Gold Mines Ltd., Yeppamana Mines and their workmen, which has received by the Central Government on 11-10-95.

[No. L-43012/4/92-IR(Misc.)]

B. M. DAVID, Desk Officer.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I AT HYDERABAD

PRESENT :

Sri A. Hanumanthu, M.A., LLB., Industrial Tribunal-I.

Dated : 21st day of July, 1995

INDUSTRIAL DISPUTE NO. 29 OF 1993

BETWEEN :

B. Lakshmanna, aged 34 years
S/o Potha Chinna Papanna,
Ramagiri Mandal, Ramagiri (PO)
Chinnakotha Palli,
Ananthapur District.

Petitioner

AND

The General Manager,
Yeppamana Gold Mines,
Bharat Gold Mines Limited,
Ramagiri, Ananthapur District .. Respondent.
APPEARANCES :

M/s. A. Rama Subbaiah & B. H. Ravi, Advocates for the Petitioner.

Respondent set exparte.

AWARD

This is a reference made by the Government of India, Ministry of Labour, by its Order No. L-43012/4/92-IR(Misc.) dated 29-12-1992 for adjudication of the Industrial Dispute under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act') annexed to the schedule which reads as follows :

"Whether the action of the General Manager, Yeppamana Mines of B.G.M. Limited, Ramgiri is justified in discharging Sri Laxmanma from services with effect from 28-5-86, if not, to what relief the workman is entitled to?"

This reference has been registered as Industrial Dispute No. 29 of 1993 on the file of this Tribunal.

2. On behalf of the Petitioner-workman a claim statement has been filed to the following effect. The petitioner was initially appointed on daily wage basis as a general labour in the employment of the Respondent-Management at its Yeppamana Gold Mines, Ramagiri, Pursuant to the Memorandum of Settlement reached with the workers union, the petitioner was absorbed as regular employee as a general labour by the orders of the Management dated 6-6-1984. The petitioner had been rendering services with T. No. 632 with utmost sincerity and satisfaction and there had been no adverse remarks whatsoever against the Petitioner. His work has been, at times, underground. While so, the petitioner developed cramps on his left shoulder in the year 1986 due to the nature of work performed by him and the petitioner was referred to the Chief Medical Officer of the Respondent to examine him and he submitted a report dated 8-3-1986 to the effect that there is dislocation in the left hand shoulder to the petitioner which had formed a false joint. It was also certified that the movement was satisfactory at the false joint. The Chief Medical Officer had concluded his report stating that considering the nature of underground work, the petitioner was not fit for underground work. Based on the report of the Chief Medical Officer, the Petitioner was kept out of employment w.e.f. 19-3-1986 by an oral order. There have been number of equivalent posts which do not require underground work and the petitioner ought to have been posted in such jobs on the surface. The petitioner was not provided with any such work, though he being a regular employee. Without conducting an enquiry and without giving an opportunity to the workman, the Management had kept the petitioner out of duty by an oral order and it amounts to dismissal. For same period thereafter the workman got treatment from a private Doctor as he could not get proper treatment at Kolar Gold Fields Hospital of the Management and later on he was cured completely. The petitioner met the authorities of the Respondent-Management repeatedly requesting for his being taken back to duty. But all the while he was being informed that the matter was being looked into. Finally, in the year 1989 the petitioner was advised and directed to get fitness certificate from the Government Hospital, Ananthapur and the petitioner obtained fitness certificate on 18-7-1989 from the Superintendent of Government General Hospital, Ananthapur to the effect that the Petitioner was fit to do manual labour. The petitioner approached the Respondent Management with fitness certificate but he was not taken back into service on 28-7-1990. A legal notice was issued to the Management. The Management made no attempt to take him back into service. Thereafter the petitioner raised the dispute before the Joint Labour Commissioner (Central) at Bangalore since the Head Office of the Management is situated at Kolar, Gold Fields Karnataka. Later on he was directed to approach the office of

the Assistant Labour Commissioner (Central) at Hyderabad and the Conciliation efforts ended in failure. The petitioner is having wife and three children and he comes from a poor family. The action of the Respondent-Management is illegal and unjust. Hence the petitioner prays that the Respondent may be directed to take him back into service with continuity of service and to pay back wages.

3. The Respondent Management remained exparte though notice served on it. No counter has been filed on behalf of the Respondent-Management.

4. During the enquiry, the petitioner got himself examined as W.W1 and he deposed to the averments in his claim statement. Ex. W1 to Ex. W4 are marked. Ex. W1 is the xerox copy of the application given by the petitioner to the Superintendent, Government General Hospital, Ananthapur to issue fitness certificate. Ex. W1(a) is the endorsement on Ex. W1 by the Civil Assistant Surgeon Government Hospital, Ananthapur, to the effect that the petitioner is fit to do normal labour work. Ex. W2 is the representation given by the petitioner before the Joint Labour Commissioner (Central) and the Conciliation Officer Hyderabad. Ex. W3 and Ex. W4 are the receipts for payment of Membership fee by the Petitioner to the workers Union, Ramgiri.

5. The points for consideration are :

(1) Whether the action of the General Manager Yeppamana Gold Mines of Bharat Gold Mines Ramgiri is justified in discharging the workman Laxmana from service w.e.f. 28-5-1986 ?

(2) To what relief the workman is entitled ?

6. POINT (1) :—As seen from the evidence on record, the petitioner was appointed as Casual Workman in the year 1982 and in 1985 his services were regularised and he was working inside the mine while working the petitioner sustained injury to his left shoulder and he was taken to the hospital by the Management for treatment. The petitioner was referred to Chief Medical Officer of the Respondent and after examining the petitioner, the Chief Medical Officer submitted his report to the effect that there was dislocation in the left hand shoulder of the petitioner and also formed a false joint. On the strength of that report of the Chief Medical Officer, the petitioner was discharged from his duty w.e.f. 19-3-1986.

7. The learned counsel for the Petitioner submits that without issuing notice or paying one month pay in lieu of notice and without paying the retrenchment compensation, the petitioner has been discharged from service w.e.f. 19-3-1986 and as such the retrenchment is bad. It is further contended by the learned counsel for the Petitioner that the Respondent remained exparte and no counter has been filed on behalf of the Respondent disputing the averments made in the claim statement and that no evidence has been produced rebutting the evidence of the petitioner and thus the evidence of the petitioner goes unchallenged and that the petitioner is entitled for reinstatement with back wages.

8. It is true that the petitioner comes within the definition of 'workman' as defined under Section 2(s) of the Act. It is also true that the petitioner has been terminated from service w.e.f. 19-3-1986. It is

well settled that all retrenchment is termination of service but all termination of service may not be retrenchment. In order to be "retrenchment" the termination of service has to fall within the ambit of the definition "retrenchment" under Section 2(oo) of the Act. Further Section 25-F of the Act prescribes the requirement of notice, payment in lieu of notice and payment of compensation as conditions precedent to the retrenchment of a workman. Termination of service of a workman as a measure of retrenchment without complying with the mandatory requirements of law under Section 25-F of the Act will be illegal. The burden of proof to establishment that the termination of services of workman is "retrenchment" is on the person putting forward the claim. In other words, where the employee claims that he has been retrenched, he must prove that he was retrenched from service and it is not for the employer to prove discharge of termination of service of an employee, was otherwise than by way of retrenchment. In the instant case, in discharge of that burden the petitioner got himself examined as W.W1.

9. Section 2(oo) of the Act defines 'retrenchment' as follows :

" 'retrenchment' means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- (a) voluntary retirement of the workman or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf ; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of the employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill-health."

The above said definition of retrenchment in Section 2(oo) of the Act is comprehensive one intended to cover any action of the management to put an end to the employment of an employee for any reasons whatsoever except in the case within the excepted class or categories i.e. (1) termination by way of punishment inflicted pursuant to the disciplinary action (2) voluntary retirement of the workman (3) retirement of the workman on reaching the age of superannuation in the contract of employment between the employer and the workman concerned contained stipulation in that behalf. (4) The termination of the services of a workman as a result of non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being termination under a stipulation in that behalf contained therein and (5) termination of services on the ground of continued ill-health. Once the case does not fall in any excepted categories, the termination of the service of the workman amounts to retrenchment within the meaning of the expres-

sion of Section 2(oo) of the Act. In the instant case, there is ample evidence on record to show that the termination of the service of the petitioner workman is due to his ill-health and as such the said termination does not amount to retrenchment. It is specifically pleaded in para 3(2) of the claim statement that the petitioner developed cramps in his left shoulder in the year 1986 due to the nature of work performed by him and that he was referred to the Chief Medical Officer of the Company who examined him and submitted a report dt. 18-6-1986 to the effect that there was dislocation in the left hand shoulder of the workman and based on that report the petitioner was kept out of employment, w.c.f. 19-3-1986 by and oral order of the Respondent Management. In his evidence as W.W1 also the petitioner admits that while working inside the mine, he sustained injury to his left shoulder that he was taken to the hospital of the Respondent for treatment that he was given treatment in local hospital for six days and thereafter he was sent for further treatment to Kolar Gold Fields hospital where he underwent treatment for 20 days. Thus it is clear from the evidence of petitioner workman himself and the averments in the claim statement that he was discharged from service only on medical grounds. Therefore, this termination of the service of the petitioner falls under the exception contained in Section 2(oo) of the Act and as such the said termination of the petitioner does not amount to retrenchment.

10. The learned counsel for the petitioner submits that the petitioner was declared fit by the Civil Assistant Surgeon Government Hospital, Ananthapur under Ex. W1(a) and as such the Respondent should take back the petitioner into service. Ex. W1 is said to be the xerox copy of the application submitted by him to the Superintendent, Government Hospital, Ananthapur to examine him and issue fitness certificate. As seen from this document, it has been signed by the applicant as P. Laxmana, Ramgiri. But the petitioner states in his evidence that he is an illiterate person. He also affixed his thumb impression in his deposition and also in the claim statement filed on his behalf. But the application Ex. W1 has been signed by a literate as P. Laxmana. Hence it could not be the application submitted by the petitioner who is an illiterate man. Therefore, there is ample doubt with regard to the genuineness of the Fitness Certificate said to have been obtained by the petitioner. Hence Exs. W1 and W1(a) cannot be accepted. Exs. W3 and W4 are the receipts for payment of subscription to the Workers Union. The petitioner claims that he paid the subscription under these receipts and that he worked under T. No. 632. Exs. W3 and W4 do not contain the name of the petitioner. Ex. W3 bears the number 632 while Ex. W4 bears the No. 601. Therefore, it is also doubtful whether these two documents relate to the petitioner. Ex. W2 is the copy of the letter submitted before the Joint Labour Commissioner (Central) and Conciliation Officer at Hyderabad raising the dispute and this letter is dt. 29-8-1990. The petitioner was discharged on 19-3-1986. There is abnormal

delay in presenting the letter, the original of Ex. W2, before the Labour authorities. No explanation is forthcoming for such abnormal delay.

11. There is also no substance in the contention of the learned counsel for the petitioner that the Respondent-Management remained *ex parte* and the Management is not contesting this reference. As earlier stated the burden lies on the petitioner-workman to establish that his termination of service amounts to retrenchment and as earlier discussed, the petitioner failed to discharge that burden. As earlier stated, the discharge of the petitioner was due to his ill-health only. Therefore, the discharge of the petitioner does not amount to retrenchment as defined under the Act. As the discharge of the petitioner does not amount to retrenchment, the management need not comply with the mandatory requirements of law under Section 25-F of the Act.

12. In the light of my above discussion, I hold on Point-1 that the action of the General Manager Yeppamana Gold Mines, Ramgiri is justified in discharging the petitioner Laxmana from service.

13. POINT 2 :—This point relates to the relief to be granted to the petitioner under this reference. In view of my finding on Point-1 that the Management is justified in discharging the petitioner workman, the petitioner is not entitled for any relief under this reference.

14. In the result, an Award is passed stating that the action of the Respondent-Management General Manager, Yeppamana, Gold Mines, Ramgiri is justified in discharging B. Laxmana from service and that the petitioner workman is not entitled for any relief under this reference. In the circumstances of the case, the parties are directed to bear their costs.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 21st day of July, 1995.

A. HANUMANTHU, Industrial Tribunal-I

APPENDIX OF EVIDENCE

Witnesses Examined for the Petitioner :	Witnesses Examined for the Respondent :
W.W1 B. Laxmana	NIL

Documents marked for the Petitioner :

- Ex. W1 Letter addressed to the Superintendent to issue Medical fitness certificate.
- Ex. W1(a) Endorsement on Ex. W1 by the Medical authorities, Ananthapur.
- Ex. W2 29-8-90 Copy of the representation submitting to the Joint Labour Commissioner, Bangalore.
- Ex. W3 & W4 Two receipts for payment as subscription paid to the union.